MATTHEWS'S GUIDE

—FOR—

SETTLERS UPON THE PUBLIC LANDS, LAND ATTORNEYS, LAND AGENTS, CLERKS OF COURTS, NOTARIES, BANKERS, BROKERS, AND ALL PERSONS INTERESTED IN THE

PUBLIC LANDS

OF THE UNITED STATE AND HAVING BUSINESS BEFORE THE DISTRICT LAND OFFICES, THE GENERAL LAND OFFICE AND THE DEPARTMENT OF THE INTERIOR.

PREFACED BY AN

HISTORICAL MAP OF THE UNITED STATES,

Showing the thirteen original States, with the Territory subsequently acquired, giving the dates and sources of acquisition, followed by a complete and exhaustive statistical history of each of the land States and Territories; the various State and Territorial laws affecting real property after title is acquired from the United States, the various laws of the United States under which title to the Public Land can beacquired, viz: The Homestead, Desert Land, Pre-emption, Mining, Townsite and Timber and Stone acts, with the rulings of the Department under each, notes on Railroad grants, concluding with the Rules of Practice before the United States district land offices, the General Land Office, and the Department of the Interior, with amendments to date.

BY

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INTRODUCTION.

Brief Historical Sketch of our National and Public Domain.

The public domain or public land of the United States is embraced within its national domain. The national domain, as established by certain treaties with foreign powers, is "the total area of land and water included within the boundaries of the United States," and is estimated by official authorities at 3,581,389 square miles, or 2,292,088,960 acres, constituting an empire in extent and national resources greater than that of Alexander's or that of ancient Rome, neither of which it is estimated exceeded 3,000,000 square miles.

The original area of the United States, as defined at the close of the Revolution of 1776 by the treaties with Great Britain of 1782–'83, acknowledging our independence as a nation and defining the boundaries of the confederacy, extended from the Atlantic ocean on the east to the Mississippi river on the west, and from the St. Lawrence river and the Great Lakes and their water connections on the north to the 31st parallel of north latitude, or the northern boundaries of the Floridas, on the south. It embraced 827,856 square miles, or 529,827,840 acres, and in 1790 supported a population of 3,637.881, which in 1860 had increased to 14,800,090, and in 1880 to 20,057,808. (*See* tables below; also map.)

During the administration of President Thomas Jefferson France, by the treaty of April 30, 1803, ceded to the United States the province of Louisiana, or, as it is generally known, the "Louisiana purchase," with an area of 926,149 square miles, or 592,735,360 acres. (*See* tables below; also map.) Its cost to the United States is estimated at $27,267,621.98.

In reference to the acquisition of Oregon Mr. McMasters, in his History of the United States, one of the latest authorities on the subject, maintains that it formed no part of the so-called "Louisiana purchase." He urges: "By Oregon was meant what is now included in the State of Oregon, the Territories of Washington and Idaho, and so much of British America as lies between the Rocky mountains, the parallel of 54°50′ and the sea. That part of Oregon within the boundary of the United States has, since the publication of the ninth census, been often

included in the Louisiana purchase. This is wholly wrong. Never at any time did Oregon form part of Louisiana. Marbois* denied it. Jefferson denied it. There is not a fragment of evidence in its behalf. Our claim to Oregon was derived, and derived solely, from the Florida treaty of 1819, the settlement at Astoria, the explorations of Lewis and Clarke, and the discovery of the Columbia river by Robert Gray." The area thus acquired was 251,562 square miles, or 160,999,680 acres.

Under the treaty of February 22, 1819, with Spain, during the administration of President Monroe, the United States purchased east and west Florida, and the Spanish title to any lands north and east of a certain described line beginning in the Gulf of Mexico, at the mouth of the Sabine river, in the sea, and running thence north and west to the 42d parallel of north latitude, and the 100° of longitude west from London, and thence westward along said 42d parallel to the South sea or Pacific ocean. (*See* tables below; also map.) The area thus acquired equaled 59,268 square miles, or 37,931,520 acres, at a cost of $6,489,768.

Under the provisions of the joint resolutions of March 1 and 29, 1845, and the act of December 29, 1845, during the administrations of Presidents Tyler and Polk, Texas was admitted into the Union, with an area of 274,356 square miles, or 175,587,840 acres. Subsequently, under the act of September 9, 1850, Texas ceded to the United States its claim to certain lands "east of the Rio Grande, and embraced within the limits of the Rio Grande on the west and south and the boundary between the United States and Spain, under the treaty of February 22, 1819, on the east." The territory included in the claim thus ceded equaled 96,705 square miles, or 61,891,200 acres, for which the United States paid Texas $16,000,000. (*See* tables below; also map.)

By the treaty of Guadalupe Hidalgo of February 2, 1848, with Mexico, at the conclusion of the war with that power, during the administration of President Polk, the United States, while establishing the Rio Grande as the western boundary of Texas, acquired in general terms all the territory extending west from the western boundaries of the province of Louisiana and Texas to the Pacific ocean between 33d and 42d parallels of north latitude. The area thus added to the national and public domain was 522,568 square miles, or 334,443,520 acres. Its cost under the treaty was $15,000,000. (*See* tables below; also map.)

Subsequently, under the treaty of December 30, 1853, with Mexico, commonly known as "the Gadsden purchase," during the administration of President Pierce, the United States acquired the Messilla valley, or an area of 45,535 square miles, or 29,142,400 acres, at a cost of $10,000,000. (*See* tables below; also map.)

* M. Barbe de Marbois, as a minister of Napoleon's, was the negotiator on the part of France of the treaty of April 30, 1803, ceding the province of Louisiana to the United States, and subsequently the author of a "History of Louisiana and of the Cession of that Colony to the United States" (Paris, 1829), in which he affirms very emphatically that "the shores of the western [Pacific] ocean were certainly never meant to be comprised in the cession," etc.

And by the treaty of March 30, 1867, with Russia, during the administration of President Andrew Johnson, Alaska was added to the national and public domain, including an area of 577,390 square miles, or 369,529,600 acres, and costing $7,200,000.

Cession by the States to the United States.

The opposite or rival claims of several of the original thirteen States to the ownership of vast tracts of unoccupied lands in the western country growing out of the "ill-defined and often-conflicting grants made by different sovereigns of England to colonies and colonists," gave rise under the confederacy to disturbing questions of a very serious nature. They menaced "the peace and safety of the States to be included in the Union." It was urged, as in the Delaware resolutions presented to Congress on February 23, 1799, that all the unoccupied or vacant lands which "hath been or may be gained from the King of Great Britain or the native Indians by the blood and treasure of all," "ought to be a common estate, to be granted out on terms beneficial to the United States."

Hence, Congress, at its session of September 6, 1780, "earnestly recommended" to the several States having "claims to the western country," as a means of "establishing the federal Union on a fixed and permanent basis," to make "a liberal surrender of a portion of their territorial claims," "for the general benefit."

Accordingly, in pursuance of this recommendation, New York ceded her claim to the United States on March 1, 1781; Virginia on March 1, 1784, and December 30, 1788; Massachusetts on April 19, 1785; Connecticut on September 14, 1786, confirmed May 30, 1800; South Carolina on August 9, 1787; North Carolina on February 25, 1790; Georgia on April 24, 1802. And on July 13, 1787*, Congress adopted "an ordinance for the government of the territory of the United States northwest of the Ohio river." (*See* tables below; also map.)

* Repealing resolutions of April 23, 1784.

ORIGINAL THIRTEEN STATES, giving charter of each at beginning of Revolution of 1776, date of first Constitution of each State, date when each adopted the Constitution of the United States, areas of each in square miles and acres, and the population and relative rank of each at the first, eighth, and tenth censuses.

States.	Charter at beginning of Revolution of 1776.	Date of first Constitut'n	Adopted Constitut'n of the U. S.	Area.(2) In square miles.	Area.(2) In acres.	Population. 1st Census (1790.)	Rank.	8th Census (1860.)	Rank.	10th Census (1880.)	Rank.
Original Thirteen States:											
NORTHERN AND EASTERN STATES.											
1. Connecticut	Ap'l 23, 1662	Sept. 15, 1818	Jan'y 9, 1788	4,750	3,040,000	237,946	8	460,147	24	622,700	28
2. Massachusetts	Oct. 7, 1731	Mar. 2, 1780	Feb'y 6, 1788	7,800	4,992,000	378,787	4	1,231,066	7	1,783,085	7
3. New Hampshire	Sept. 18, 1679	Jan'y 5, 1776	June 21, 1788	9,280	5,939,200	141,885	10	326,073	31	346,991	34
4. Rhode Island	July 8, 1663	Sep. —, 1842	May 29, 1790	1,306	835,840	68,825	15	174,620	33	276,531	33
5. New Jersey	(*)	July 2, 1776	Dec. 18, 1787	8,320	5,324,800	184,139	9	672,035	19	1,131,116	10
6. New York	Feb'y 9, 1671	Ap'l 20, 1777	July 26, 1788	47,000	30,080,000	340,120	5	3,880,735	1	5,082,871	1
7. Pennsylvania	Feb. 28, 1681	Sept. 28, 1776	Dec. 12, 1787	46,000	29,440,000	434,373	2	2,906,215	2	4,282,891	2
Total				124,456	79,651,840	1,786,075		9,650,891		13,526,187	
SOUTHERN STATES.											
8. Delaware	(†).	Sept. 20, 1776	Dec. 7, 1787	2,120	1,356,800	59,096	32	112,216	38	146,608	36
9. Georgia	June 9, 1732	Feb'y 5, 1777	Jan'y 2, 1788	58,000	37,120,000	82,548	11	1,057,286	13	1,542,180	13
10. Maryland	June 20, 1632	Aug. 14, 1776	April 28, 1788	11,124	7,119,360	319,728	6	687,049	23	934,943	23
11. North Carolina	June 30, 1665	Dec. 18, 1776	Nov. 21, 1789	50,704	32,450,560	393,751	3	992,622	12	1,399,750	15
12. South Carolina	(‡)	Mar. 26, 1776	May 23, 1788	34,000	21,760,000	249,073	7	703,708	18	995,577	21
13. Virginia	Mar. 12, 1612	July 5, 1776	June 26, 1788	61,348	39,262,720	747,610	1	1,596,318	5	¶ 1,512,565	14
Total				217,296	139,069,440	1,851,806		5,149,199		6,531,623	
Total original thirteen States.				341,752	218,721,280	3,637,881		14,800,090		20,057,808	

*Held under same grants as New York.

†Embraced in the charter of Pennsylvania.

‡Embraced in the charters of Carolina or North Carolina.

§From the annual report of the Commisssioner of the General Land Office of 1888, p. 230.

‖Art. VII of the Constitution provided, "The ratification of the conventions of nine States shall be sufficient for the establishment of the Constitution between the States so ratifying the same." It was adopted by eleven States prior to and went into operation on Wednesday, March 4, 1789. Consequently, North Carolina which adopted that instrument on November 21, 1789, and Rhode Island which adopted it on May 29, 1790, did so subsequently to the establishment of the Union of States created by the Constitution.

¶That is, the population in 1880, not of the "Old Dominion" entire, but of Virginia minus West Virginia. On November 26, 1861, at Wheeling, assembled a Convention representing the citizens of that portion of Virginia west of the Alleghaney mountains, and framed a Constitution fixing boundaries for a State to be called West Virginia. That Constitution was submitted to and ratified by the people of the proposed State. Congress was memoralized for its admission into the Union, and by the act of December 31, 1862, West Virginia was admitted as an independent State. The present areas are—

	Sq. miles.	*Acres.*	*Popula'n.*
Virginia (east)	38,348	24,542,720	1,512,565
West Virginia	23,000	14,720,000	618,457
Original area of "Old Dominion" in 1789, as above	61,348	39,262,720	2,131,022

NORTHEASTERN, NORTHWESTERN, and SOUTHWESTERN Territories, parts of the original national domain, formed out of certain States or ceded by them to the United States, with dates of cession, dates of acts organizing Territory and of acts of admission into the Union and areas and population.

	Ceded to the United States by—	Date * of act of cession.	Organized as a Territory.	Admitted as a State.	Area.		Population—	
					In sq're miles.	In acres.	At census follow'g date of admiss-ion as a State.	In 1880.
District of Columbia	{Maryland / Virginia}	{Dec. 23, 1788 / Dec. 3, 1789}		*July 16, 1790	*60	38,400	14,093	177,624
NORTHEASTERN TERRITORY.								
1. Vermont	New York	Mar. 6, 1790		Mar. 4, 1791	10,212	6,535,680	85,425	332,286
2. Maine	Mass			†Mar. 15, 1820	35,000	22,400,000	96,540	648,936
Total					45,212	28,935,680		981,222
NORTHWESTERN TERRITORY.**								
3. Illinois	**Virginia	{Mar. 1, 1784 / Dec. 30, 1788}	Feb'y 3, 1809	Dec. 3, 1818	55,411	35,464,960	55,162	3,077,871
4. Indiana	do	do	May 7, 1800	Dec. 11, 1816	33,809	21,637,760	147,178	1,978,301
5. Ohio	do	do		‡Nov. 29, 1802	39,976	25,584,640	230,760	3,198,062
6. Michigan	do	do	Jan'y 11, 1805	Jan. 26, 1837	56,451	36,128,640	212,267	1,636,937
7. Minnesota (E. of Miss.)	do	do	Mar. 3, 1849	‡May 11, 1858	26,000	16,640,000	(‡)	(‡)
8. Wisconsin	do	do	April 20, 1836	May 29, 1848	53,924	34,511,360	305,391	1,315,497
Total					265,574	169,967,360		11,206,668
SOUTHWESTERN TERRITORY.								
9. Alabama (major part of)	{So. Carolina / Georgia}	{‖Mar. 8, 1787 / ‖June 16, 1802}	Mar. 3, 1817	Dec. 14, 1819	48,422	30,990,080	127,901	1,262,505
10. Kentucky	Virginia	Dec. 18, 1789		¶June 1, 1792	37,680	24,115,200	220,955	1,648,690
11. Mississippi (major part of)	{So. Carolina / Georgia}	{‖Mar. 8, 1787 / ‖June 16, 1802}	April 7, 1798	Dec. 10, 1817	43,556	27,875,840	75,448	1,131,597
12. Tennessee	No. Carolina	‖Dec. —, 1789		June 1, 1796	45,600	29,184,000	105,602	1,542,359
Total					175,258	112,165,120		5,585,151
Grand total					486,101	311,106,560		17,950,665

* Established as seat of Federal Government. Original area, 10 miles square, or 100 square miles, containing 64,000 acres. County of Alexandria (the Virginia cession) retroceded to Virginia by act of July 9, 1846.

† Under act of March 8, 1820. ‡ Under act of April 30, 1802.

¶ Under act of February 4, 1791.

‡ For population of Minnesota see following table.

‖ South Carolina act of cession of March 8, 1787: conveyed by South Carolina State commissioners to the United States August 9, 1787, and by those of Georgia April 24, 1802, which was ratified by the State, June 16, 1802.

** Embraced in this territory were the lands ceded by the several States having claims to the western country, to wit: New York on March 1, 1781; Virginia on March 1, 1784, and Dec. 30, 1788; Massachusetts on April 19, 1785; and Connecticut on Sept. 14, 1786, confirmed May 30, 1800.

ACQUISITIONS FROM FOREIGN POWERS subsequent to the adoption of the Constitution, dates of treaties of cession, dates of acts organizing Territory and of admission as States into the Union, with areas and population, etc.

	Ceded to the United States by	Date of treaty of Cession.	Organized as a Territory.	Admitted as a State.	Area.		Population.	
					In square miles.	In acres.	At census next following date of admission as a State.	In 1880.
Province of Louisiana. ("*Louisiana Purchase.*")								
STATES.								
1. Alabama (west of the Perdido and on the Gulf)	France	April 30, 1803	Mar. 3, 1817	Dec'r 14, 1819	2,300	1,472,000	(*)	(*)
2. Arkansas	do	do	Mar. 2, 1819	June 15, 1836	52,203	33,409,920	97,574	802,525
3. Colorado (east of Rocky mountains and north of Arkansas river)	do	do	Feb. 28, 1861	August 1, 1876	57,000	36,480,000	.....	194,327
4. Iowa	do	do	June 12, 1838	Dec'r 28, 1846	55,045	35,228,800	192,214	1,624,615
5. Kansas (all but southwest corner)	do	do	May 30, 1854	Jan'y 29, 1861	73,125	46,800,000	107,206	996,096
6. Louisiana	do	do	Mar. 2, 1805	April 8, 1812	44,893	28,731,520	152,923	939,946
7. Minnesota (west of Mississippi river)	do	do	Mar. 3, 1849	May 11, 1858	57,531	36,819,840	172,023	780,773
8. Mississippi (west of Alabama, adjoining Louisiana on the gulf)	do	do	April 7, 1798	Dec'r 10, 1817	3,600	2,304,000	(*)	(*)
9. Missouri	do	do	June 4, 1812	Aug't 10, 1821	65,370	41,836,800	66,557	2,168,380
10. Nebraska	do	do	May 30, 1854	March 1, 1867	73,558	47,077,120	122,993	452,402
TERRITORIES.								
1. Dakota	do	do	Mar. 2, 1861	.....	150,932	96,596,480	.....	135,177
2. Indian (including Oklahoma)	do	do	.....	.....	63,253	40,481,920		
3. Montana	do	do	May 26, 1864	.....	143,776	92,016,640	.....	39,159
4. Wyoming (all but zone in middle, south, and southwest parts)	do	do	July 25, 1868	.....	83,563	53,480,320	.....	20,789
Total Louisiana purchase	.....	.....	.....	.....	926,149	592,735,360	.....	8,154,759
Florida Purchase.								
East and west Florida	Spain	Feb'y 22, 1819	Mar. 30, 1822	March 3, 1845	59,268	37,931,520	34,730	269,493

Discovery, Exploration and Settlement.†								
Oregon			Aug. 14, 1848	Feb'y 14, 1859	95,274	60,975,360	52,465	174,768
Idaho			Mar. 3, 1863		86,294	55,228,160		32,610
Washington			May 2, 1853		69,994	44,796,160		75,116
					251,562	160,999,680		282,494
Annexation.								
Texas				{Mar. 1, 1845 / Dec. 29, 1845}	274,356	175,587,840	212,592	1,591,749
Guadalupe Hidalgo.								
STATES.								
1. California	Mexico.	Feb'y. 2, 1848		Sept'r 9, 1850	157,801	100,992,640	92,597	864,694
2. Colorado (west of Rocky mountains)	do.	do.	Feb. 28, 1861	August 1, 1876	29,500	18,880,000	(‡)	(‡)
3. Nevada	do.	do.	Mar. 2, 1861	Octo'r 31, 1864	112,090	71,737,600	42,491	62,266
TERRITORIES.								
1. Arizona (except Gadsden purchase)	do.	do.	Feb. 24, 1863		82,381	72,906,240		40,440
2. New Mexico (west of Rio Grande and north of Gadsden purchase)	do.	do.	Sept. 9, 1850		42,000	26,880,000		119,565
3. Utah	do.	do.	Sept. 9, 1850		84,476	54,064,640		143,963
4. Wyoming (zone in southwest part, etc.)	do.	do.	July 25, 1868		14,320	9,164,800		20,789
Total					522,568	334,443,520		
Gadsden Purchase.								
(*Messilla Valley.*)								
TERRITORIES								
Arizona (southern part)	Mexico.	Dec'r. 30, 1853	Feb. 26, 1863		31,535	20,182,400		(§)
New Mexico (west of Rio Grande)	do.	do.	Sept. 9, 1850		14,000	8,960,000		(‖)
Total					45,535	29,142,400		
Texan Purchase.								
Colorado (southeast corner)	Texas	Dec'r. 13, 1850	Feb. 28, 1861		18,000	11,520,000		(‡)
Kansas (southwest corner)	do.	do.	May 30, 1854		7,766	4,970,240		(¶)
New Mexico (east of Rio Grande)	do.	do.	Sept. 9, 1850		65,201	41,728,640		(‖)
Public land strip	do.	do.			5,738	3,672,320		
Total					96,705	61,891,200		
Alaskan Purchase.								
Alaska	Russia.	March 30, 1867			577,390	369,529,600		

* See preceding table for population of Alabama and Mississippi.
† Discovery, 1792; exploration, 1804-'6; settlement, 1811; treaty with Spain, February 22, 1819.
‡ See preceding page for population of Colorado.
‖ See above for population of New Mexico.
§ See above for population of Arizona.
¶ See preceding page for population of Kansas.

RECAPITULATION.

	Total areas.			
	In square miles.		In acres.	
Territory ceded by Great Britain under treaties of 1782-'83, to wit:				
Original 13 States	341,752		218,721,280	
District of Columbia	60		38,400	
Northeastern Territory	45,212		28,935,680	
Northwestern Territory	265,574		169,967,360	
Southwestern Territory	175,258		112,165,120	
Total		827,856		529,827,840
Province of Louisiana (Louisiana purchase, France—1803)		926,149		592,735,360
Florida purchase (Spain—1819)		59,268		37,931,520
Oregon (discovery, exploration, settlement, and treaty		251,562		160,999,680
Texas (annexation—1845)		274,356		175,587,840
Texan purchase (1850)		96,705		61,891,200
Guadalupe Hidalgo (Mexico, conquest—1848)		522,568		334,443,520
Gadsden purchase (Mexico—1853)		45,535		29,142,400
Alaska (1867)		577,390		369,529,600
Grand total		3,581,389		2,292,088,960

Of which areas 976,626,672 acres had been surveyed up to June 30, 1888, leaving an area of 838,877,475 acres unsurveyed.

Data for the columns of areas in these tables were obtained from a work (*The Public Domain; its History, etc., 1884,*) published by the Government; also from the *Annual Reports of the Commissioner of the General Land Office* and other United States official authorities. In the text of the present work, in cases where the federal estimates differ from State reports as to areas, the latter are sometimes followed; but assuming that the estimates of the United States government reports are approximately correct, the reader is referred for the official areas, for population in 1880, and for interesting historical matter to the above tables.

Public Land States or Territories.

The public land States and Territories lie mainly between the 49th and 25th degrees of north latitude and the 85th and 125th degrees of longitude west from London. In all of them, during the last five years, every element of industrial progress has greatly advanced. The population of all has steadily increased. Indian wars or raids are practically evils of the past. The Indians themselves, coralled in reservations under strong and intelligent government, are instructed in the "white man's ways," in the walks and arts of civilized life, preparatory to their settlement in severalty on the lands they now occupy in the reservations. Educational systems, including public schools of excellent character well supported, and universities and colleges of every grade for instruction in science and every other department of learning, have long existed in all, as also excellent institutions for the amelioration of the condition of the afflicted, the unfortunate or the needy.

The Emigrant's Opportunities.

Embracing every variety of soil and climate favorable to the profitable raising of all farm products from the semi-tropical to those of the extreme north temperate, and to stock culture (cattle, horses, sheep, and hogs), as also wool, with the precious metals, iron, coal, lead, copper, and other minerals of every known variety—some of them, like iron and coal, those great conservators of civilization and wealth, in practically inexhaustible quantities—and liberal laws, national and local, relating to the land, mining, taxation and citizenship, these public land States and Territories open out splendid opportunities or possibilities to the capital, enterprise, industry, and thrift of all classes of emigrants.

Manufactures are no longer confined to the eastern and northern States. Their empire is rapidly passing, and permanently, to the great west and south. Everywhere throughout the west, indeed, in every State and Territory, as in some of the States south and southwest, manufactures and the mechanic arts have made and are making rapid advances, adding greatly to the wealth, prosperity, and comforts of the people, and the eleventh census of 1890 will doubtless in that and other important features furnish many gratifying proofs of the grand industrial progress of those sections.

Private Land Claims.

But there are a number of causes which operate against or circumscribe the opportunities of the *bona fide* settler. In Louisiana and several of the Territories, and particularly in Arizona, California, and New Mexico, are "private land claims," many of them fraudulent but supported by powerful interests, of pretended ancient dates, extending back in their alleged origin to grants from France, Spain, and Mexico prior to the cession of the territory to the United States, and some of them, like the notorious "Peralta," in Arizona, embracing immense areas. The land, millions of acres, included in these claims, are necessarily segregated from the public domain, and so continue for indefinite periods, even if any of the land is ever again thrown open to settlement under our homestead and other land laws. Settlers are thus excluded from some of the richest of the public lands, in the most favored climates, or if successful in "squatting" upon the land thus segregated, it is only at the peril of being evicted and their improvements, the fruits of their capital and labor, confiscated, or of being compelled to ransom these at such prices for the land as may be arbitrarily imposed by the private land claimant if he succeeds in obtaining patent for his alleged grant. And apparently no appeal, either by settlers or federal or State officials, or by all combined, to Congress, exposing this injustice and its malign effect upon the most vital interests of the Territory or State in which it exists, and praying a remedy or relief, has any influence on that honorable and sapient body.

Desert Lands.

In the States of California, Nevada, and Oregon, and the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington and Wyoming, are large areas of what are called "desert lands," upon which in their present condition no farm crop can be grown: probably much of these lands will remain permanently worthless for purposes of agriculture. They certainly now are a great obstacle to settlement. But the surveyor-general of Nevada, in his latest annual report to the General Land Office, urges that "the desert lands" in that State, "now unproductive and worthless," may, by a proper system of irrigation, be made the richest and most productive lands to be found any where in the United States, and he estimates that from 15,000 to 20,000 square miles of these now worthless lands in Nevada may thus be converted into richly productive areas.

Experiments to obtain the requisite supply of water for purposes of irrigation by means of artesian wells, resorted to in some localities, have been abandoned as practical failures; but hundreds of miles of irrigation canals and ditches in the Territories have been built and others are building by private enterprise at heavy cost, fertilizing millions of acres of hitherto unproductive wastes, and rendering their settlement and cultivation possible and profitable. In Maricopa county, Arizona, up to June 30, 1888, the canals and ditches completed and in operation had cost $2,000,000, and others building would probably cost an additional million. In Pinal county, in the same Territory, 148 miles had been constructed, and 77 miles were building, at a cost of from $1,000 to $4,000 per mile. At Walnut Grove, in Yavapia county, Arizona, a dam 100 feet high has been constructed holding in reserve a large body of water, to be utilized for mining purposes, and so in other counties. These facts illustrate the enterprise, activity, and capital at work in the Territories.

It is estimated that the annual rainfall, if properly husbanded, is more than sufficient to irrigate all available lands for agricultural purposes. "Nature," says Mr. H. H. Logan of Arizona, "has done everything but put in the key to hold and store large quantities of water for summer use," and hence there is a general advocacy of a system of storage reservoirs for the necessary water supply. The storage of water, as demonstrated in Arizona, is no longer an experiment, and appropriations and engineers are asked of the government for the construction of reservoirs or dams for the purpose of storing the waters from the melting snow along the mountain ranges. In the meantime desert land entries and declarations of filings annually increase.

Unsurveyed Public Lands.

The Commissioner of the General Land Office, Hon. S. M. Stockslager, in a letter dated February 11, 1888, declares:

A glance at the official map of Idaho quickly discloses the fact that a large portion of the Territory is unsurveyed, nowhere penetrated by even standard, parallel, and meridian lines. Throughout much of this unsurveyed region extensive, fertile, and irrigable lands are being settled up in good faith under the "homestead" and other laws enacted for the sole purpose of encouraging such settlement. They [settlers] are constantly soliciting public surveys, which if made would prevent contentions and sometimes bloodshed. In many cases they cannot inform this office definitely as to the townships in which the lands are situate, and frequently cannot even approximate such locality with reference to surveyed lines.

And fraudulent, inaccurate, and imperfect surveys, many of which exist in California and other States, as also in some of the Territories, create like confusion or ignorance as to the situation of the land, and equally militate against the prosperity and peace of individuals and communities.

The neglect or refusal of Congress for many years past to authorize by adequate appropriations the necessary surveys or resurveys of the public lands is reprobated by Surveyor-General Julian, of New Mexico, in his latest annual report to the Commissioner of the General Land Office, as "inexcusable folly and wrong," as "systematic niggardliness," "indefensible and suicidal," and as "sacrificing the prosperity and enduring interests" of the public land States and Territories "on the altar of a false economy."

Advice to Emigrants.

These are some of the principal disabilities which operate against the emigrant or settler on the public lands. All consequently, in the purchase or settlement of land, must exercise considerable vigilance if they would avoid the annoyances and losses which they entail. The following advice, modified somewhat from a pamphlet entitled "*All About California*," etc., and published by the California Emigrant Union, will be found valuable by emigrants, especially by those going into a strange country or not accustomed to travel:

1. Buy your tickets for passage on railroad or steamboats only at the office before starting. Many of the runners who offer tickets for sale in the streets are swindlers. If you intend to go in a steamer or ship examine the vessel before getting your ticket, and engage a particular berth or room in a part of the vessel that is clean, well ventilated and just comfortably warm.

2. Never show your money nor let any stranger know that you have any. Thieves prefer to rob emigrants, who generally carry money with them, and cannot stop to prosecute them, and have no acquaintances to aid in the prosecution. Do not mention the fact that you are an emigrant to persons who have no business to know it.

3. Never carry any large sum of money with you. You can always buy drafts at banks, and if you are going to a strange place you can give your photograph to the banker to forward to your destination, so that you can be identified without trouble when you want to draw your money.

4. Avoid those strangers who claim to be old acquaintances and whom you do not recollect. A certain class of thieves claim the acquaintance of ignorant countrymen whom they want to rob.

5. Do not drink at the solicitation of strangers. The first point of the thief is to intoxicate or drug his victim.

6. Do not play cards for money with strangers. In many cases they confederate to rob emigrants.

7. Travel in company with old friends if possible, and do not leave them. Thieves prefer to take their victims one at a time.

8. If you see anybody pick up a full pocket-book and he offers it to you for a small sum, or if you see some men playing cards and you are requested to bet on some point where it seems certain that you must win, or if you see an auctioneer selling a fine gold watch for five dollars, don't let them catch you.

9. If, when you arrive in a strange place, you want information and advice, you can always get it by applying at the right place. First apply at the office of the Immigration Society if there is one. If you are a foreigner you will probably find in the large cities a consular office or a benevolent society of your countrymen, and you can apply there. Usually, there are attentive and polite men at the police offices. Public officers generally in the United State are ready to assist and advise strangers.

10. Before starting from home carefully read all the accessible books about the State or Territory to which you intend to go; and when you arrive go to some place where you can find old friends if you have any. If you are poor commence work immediately, but do not be in a hurry to buy or settle on land unless with the approval of men whom you can trust. Take a month or two to get information about the country. Advice about the purchase of land is often given with corrupt motives. It is very seldom that anything is lost by a delay of a week or two in closing a bargain for land, though the seller will frequently say that somebody else is just going to take it. But do not delay to purchase, if you have the means, or to settle on public lands, for more than two or three months: it is always cheaper for you to live on your own land.

11. Engage in some business with which you are familiar; and if its conditions are different from those to which you are accustomed commence slowly, so as to learn at little expense. The agriculturist from Europe or the Atlantic States must learn anew many things in his business in the west, south and southwest.

12. Never fear failure at farming on your own land if you live economically, work hard, and select your place well.

13. It is better to be very poor for a few years on your own land than to be moderately poor as a tenant for others.

14. In selecting a home look ahead. Care more for ultimate than for immediate success. Wherever there is a large district of fertile soil with a good climate you can confidently settle down. It must fill up and the land must rise in value. The fewer the people the better opportunity you have to select the most desirable spots, and when immigration comes in the greater will be the relative increase of population.

15. Before finally fixing upon a place to settle in a State or Territory, examine what the average rainfall is; whether there are facilities for irrigation; what are the average temperatures of the planting and cropping seasons; whether it is exposed to floods; whether fevers are common; whether it is in or near the lines of any railroad likely to be built soon, and whether the soil is adapted to the cereals, the vine or fruits, cattle raising, etc.

To the Hon. Luther Harrison, Assistant Commissioner Gen'l Land Office.

SIR: As my original appointment in the General Land Office was due solely to your influence during your able administration of the office of Assistant Commissioner, I beg leave to inscribe this little volume to you.

It is gratifying to me, in expressing my acknowledgment for your approval of this publication, to record the respect and esteem with which I, in common with all who were connected with you in official life, entertain for your impartial administration of the various offices you have filled—for your uniform courtesy and generous kindness.

With gratitude and regard, I have the honor to be

Very sincerely yours,

WILLIAM B. MATTHEWS.

ERRATA:

On page 8, line 21, for "1852," *read* 1853.

On page 9, line 19, for "$1,000,000," *read* over $3,000,000.

On page 15, line 4 from bottom of page, for "February 28," *read* February 2.

On page 21, line 7 from bottom of page, for "February 28," *read* February 2.

On page 22, line 14, for "243,910," *read* 194,327.

On page 39, line 4 from bottom of page, under the heading of "No Man's Land," it is stated: "Its only occupants a few intruding cattlemen." But since printing that statement it has been ascertained from reliable authority that every acre of its lands has been appropriated by "squatters" in anticipation of the lands being thrown by government open to settlement under our land laws.

On page 48, line 28, for "1804," *read* 1805, and on same page, line 29, for "January 12," *read* April 8.

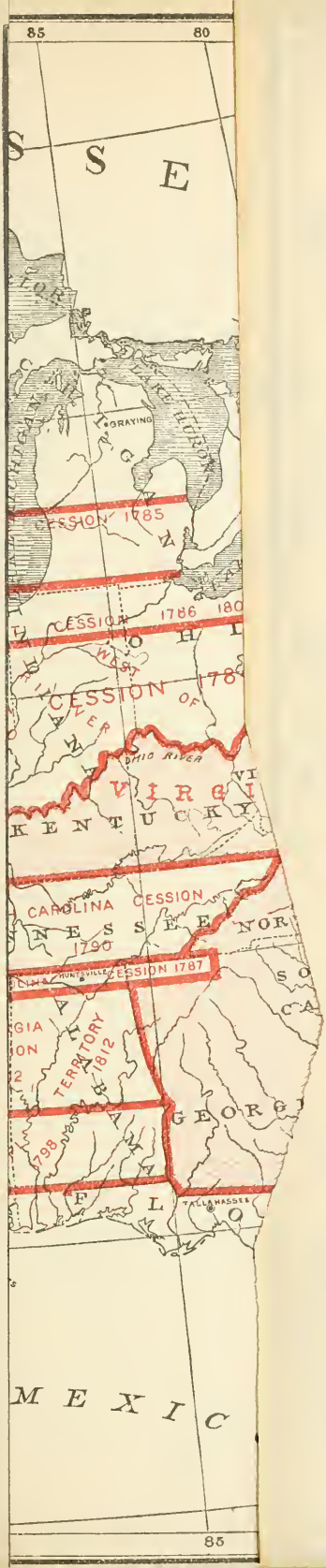
On page 53, line 10, for "1783–'88," *read* 1781–'88.

On page 53, line 7, for "1783–'88," *read* 1781–'88.

On page 66, line 3, for "menancing," *read* menacing.

On page 78, line 15, for "1884," *read* 1880.

On page 92, line 44, for "796,160," *read* 44,796,160.


85
80
S E
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CESSION 1785
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CESSION OF
OHIO RIVER
VIRGI
KENTUCKY
CAROLINA CESSION
1790
CESSION 1787
HUNTSVILLE
TERRITORY
1812
GEORG
798
TALLAHASSEE
MEXIC
85

MAP OF THE
UNITED STATES
Showing the
ACQUISITION OF NATIONAL AND PUBLIC DOMAIN
from
STATES IN THE UNION BY CESSION and through TREATIES WITH FOREIGN NATIONS
together with it's present Location in STATES AND TERRITORIES
1776 to 1888

ALSO THE LOCATION OF THE LOCAL LAND OFFICES IN THE SEVERAL LAND STATES AND TERRITORIES

Note. The Area of the Original Thirteen States is shaded in red.
* Denotes Surveyor Generals Office
• " Local Land "

MATTHEWS'S GUIDE.

ALABAMA:

A word meaning, according to a Creek Indian tradition, "*Here we rest!*" Formed out of territory ceded by South Carolina in 1787 and by Georgia in 1802 and by Spain in 1819 to the United States. Originally a part of Mississippi Territory. Eastern part of Mississippi Territory made by act of March 3, 1817, into a separate Territory and called Alabama. The people, having framed a constitution under the enabling act of March 2, 1819, Alabama was admitted as a State December 14, 1819. Seceded January 11, 1861; readmitted June 25, 1868.

Area: In square miles, 50,722; in acres, 32,462,115.

Montgomery is the capital; population, 16,713. Mobile the metropolis; population, 29,132. Huntsville the northern trade center; population, 4,977. Selma an important railroad center; population, 7,529.

Counties, 66.

Population of State estimated (1887) at 1,500,000.

Great number of valuable waterways drain every region. Nearly all the rivers navigable; inland steam navigation exceeds 2,000 miles, furnishing valuable channels of commerce for the products from the mine, the field, and the forests to the markets of the world.

Mean annual temperature of State, 64.58° F. Mean temperature for the seasons: spring, 63.9°; summer, 79.5°; autumn, 64.5°; winter, 54.4°. Extremes of temperature comparatively rare.

Average rainfall for State, 55.04 inches. Of this 13.86 inches fall during spring, 14.07 inches during summer, 14.70 inches during autumn, and 16.37 inches during winter.

Climate balmy and healthy. Fruit trees blossom from February 1 to March 1.

Soils of every possible variety from the thinnest sandy land to the richest alluvial.

State divided into the CEREAL, the MINERAL, the COTTON, and the TIMBER BELTS.

CEREAL BELT extends across the northern boundary of the State from east to west and embraces the famous Tennessee Valley and its tributaries.

A most lovely region; soil rich and productive.

Principal crops: cotton, corn, wheat, oats, sorghum, and sweet potatoes.

Orchard products, apples and peaches, grown in vast quantities. Grapes, wild fruits, and berries in the greatest profusion.

Abundant water power, coal, timber, etc.

Ample facilities for the manufacturer, the farmer and the horticulturist.

The MINERAL the largest of the four belts, including 28 counties and covering more than one-third of the State.

Resources practically inexhaustible: stone, coal, iron, and all the minerals known to art, etc.

Three great coal-fields: The Warrior, the Cahaba, and the Coosa.

Warrior coal-field, one vast body of coal, 7,810 square miles in area. Available coal estimated as equaling 500 square miles, with 75 feet in thickness, giving a block of coal 75 miles long by 50 miles wide and 10 feet thick, furnishing a supply of coal for 10,275 years at the rate of 10,000 tons per day. Coal adapted to the production of gas and steam; also fitted for domestic purposes and the blacksmith shop. Also excellent coking coal.

Cahaba coal-field, south of the Warrior; long worked; coal famous as a domestic fuel. Covers an area of over 400 square miles, and its measures are estimated at 5,000 feet thick. Estimated output, 10,000 tons per day for 1,100 years.

Coosa coal-field estimated as covering an area of 400 square miles, with a daily output of 10,000 tons for 165 years.

Also iron in numerous beds and immense quantities, and tin, copper, lead, asphalt, etc.

The COTTON or BLACK BELT lies directly south of great Mineral Belt, extending from east to west, from limit to limit, of State.

Area, 13,610 square miles.

A prairie region broken by districts of timber. Soil in richer portions of black or dark color, containing a great deal of lime. Enlarged transportation facilities. All principal rivers of State, except the Tennessee, flow directly through this belt; also penetrated by the great railway systems.

Unsurpassed as a farming region: wheat, rye, oats, tobacco, sorghum, sugar cane, Irish and sweet potatoes, rice, and peanuts are produced in great readiness.

The TIMBER BELT lies directly south of the Cotton or Black Belt, and north of Gulf of Mexico. Its immense forests its peculiar glory. But its superb timber and great timber wealth not its only characteristics.

Surface undulating, with level plateaus or table lands. Surface soil of a sandy nature, capable of producing excellent crops. Bottoms and adjacent lands very fertile. Soils peculiarly adapted to root crops, fruits and vegetables. Sugar cane, potatoes, yams, melons, apples, peaches, pears, apricots, grapes, berries of every sort, pecans, pomegranates, oranges, and figs all thrive, and yield in proportion to the labor and care on them.

Wild fruits in thousands of bushels grow in the forests.

Also adapted to stock raising. Grasses and clover, wild and domestic, in inexhaustible abundance.

AGRICULTURAL STATISTICS:

No. of farms in 1880, 135,894; total land in farms, 18,855,334 acres; improved land in farms, 3,375,706 acres; average size of farms, 139 acres; value of farms, $78,954,648.

Average value of land per acre: cleared land, $6.53; wood land, $4.08.

Farm products of 1886: *Indian corn:* Product, 28,898,000 bushels: average yield per acre, 12.1 bushels; area of crop, 2,393,036 acres; value per bushel, 60 cents; total valuation, $17,335,800. *Wheat:* Product, 1,529,000 bushels; average yield per acre, 6.9 bushels; area of crop, 222,704 acres; weight per bushel, 58 pounds; value per bushel, $1.07; total valuation, $1,636,030. *Rye:* Product, 44,000 bushels; average yield per acre, 7.3 bushels; area of crop, 6,059 acres; value per bushel, $1.20; total valuation, $52,800. *Oats:* Product, 4,718,000 bushels; average yield per acre, 11.5 bushels; area of crop, 409,807 acres; value per bushel, 62 cents; total valuation, $2,925,160. *Barley:* Product, 7,000 bushels; average yield per acre, 11 bushels; area of crop, 636 acres; value per bushel, 93 cents; total valuation, $6,500.

Potatoes: Product, 614,000 bushels; average yield per acre, 65 bushels; area of crop, 9,447 acres; value per bushel, 95 cents; total valuation, $583,300.

Hay: Product, 31,000 tons; average yield per acre, 1 ton; area of crop, 31,000 acres; value per ton, $13.50; total valuation, $418,500.

Cotton: Product, 752,220 bales; average yield per acre, .226 ton; area in crop, 2,823,718 acres; value per pound, 8 cents 3 mills; total valuation, $30,467,917.

Total area in crop of 1886, 5,896,407 acres; total valuation of farm products, $53,426,017.

Farm animals: *Horses:* number, 130,853; average price, $82.54; value, $10,800,825. *Mules:* number, 137,695; average price, $87.01; value, $11,980,525. *Milch Cows:* number, 296,787; average price, $15.40; value, $4,570,520. *Oxen and other cattle:* number, 445,139; average price, $9.41; value, $4,187,825. *Sheep:* number, 310,622; average price, $1.46; value, $453,135. *Hogs:* number, 1,376,148; average price, $3.39; value, $4,661,014.

Wages per month by the year of farm labor (1886): Without board, $13.59: with board, $9.49. Day wages in harvest: Without board, 97 cents; with board, 72 cents. Day wages of ordinary farm labor: Without board, 72 cents; with board, 53 cents.

Dairy products—1880: Milk, 267,387 gallons; butter, 7,997,719 pounds; cheese, 14,091 pounds.

MANUFACTURES (1880):

Number of establishments, 2,070; capital, $9,668,008; average number of hands employed, 10,019; total wages paid, $2,500,504; value of materials, $8,545,520.

Manufacturing products—(value in 1880): Cotton goods, $1,352,099; flouring and grist mill, $4,315,174; foundry and machine shop, $293,691; iron and steel, $1,452,856; lumber, sawed, $2,649,634; tar and turpentine, $372,050; all other industries, $3,130,009.

Total value of manufacturing products, $13,565,193.

Excellent public school system well supported.

Total assessed valuation in 1880 of real estate and personal property, $122,867,228.

Railroads, June 30, 1887: Mileage, 2,441.70; total track, 2,715.01 miles; locomotives, 224; total revenue cars, 5,475.

State elections biennial first Monday in August; congressional and presidential elections Tuesday after first Monday in November; senators, 33—representatives, 100; sessions of legislature biennial in

even numbered years, meeting Tuesday after second Monday in November; limit of session, 50 days; term of senators, 4 years—of representatives, 2 years.

Electoral college, 10.

Legal interest rate, 8 per cent.; usury forfeits entire interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANIC'S LIENS, MORTGAGES, AND WILLS.

DEEDS.—All persons of the age of twenty-one years, not under legal incapacity, may alienе lands, or any interest therein, immediate or future, certain or uncertain, or may devise the same by will. (Code of Ala. § 2111.) A married woman, if over the age of eighteen years, may convey her own lands, or release her dower in the lands of her husband.

Alienations of lands, or of any right or interest therein (other than of the homestead), "must be written or printed, on parchment or paper, and must be signed at the foot by the contracting party or his or her agent having written authority; or if he is not able to sign his name, then his name must be written for him, with the words 'his mark' written against the same or over it. The execution of such conveyance must be attested by one, or, when the party cannot write, by two witnesses who are able to write, and who must sign their names as witnesses." (Pamph. Acts, 1884-85, p. 111.)

The wife may relinquish dower by joining with the husband in a conveyance attested by two witnesses, or acknowledged before an officer having authority to take acknowledgment of conveyances; or subsequent to a conveyance by the husband, by an instrument in writing executed in the presence of two attesting witnesses, or acknowledged before an officer having authority to take the acknowledgment of conveyances. (Pamph. Acts, 1884-85, p. 126.)

In conveyances of the separate estate of the wife, the husband must join. (Code of Ala. § 2707.)

Acknowledgments and proofs of conveyances may be taken by Judges of the supreme and circuit courts and their clerks, chancellors, and registers in chancery, Judges of the courts of probate, justices of the peace, and notaries public. If taken in other States of the United States, they may be taken by judges and clerks of any federal court, Judges of any court of record in any State, notaries public, or commissioners appointed by the governor of Alabama. Beyond the limits of the United States, such acknowledgments and proofs may be taken by the judge of any court of record, mayor, or chief magistrate of any city, town, borough, or county, notaries public, or by any diplomatic, consular, or commercial agent of the United States. (Code of Ala. §§ 2155, 2156.)

Powers of attorney to convey property may be proved or acknowledged in the same manner, and must be received as evidence to the same extent as conveyances.

If the grantor is unknown, his or her identity may be established by evidence satisfactory to the officer taking the acknowledgment.

TRUST DEEDS.—Mortgages of real or personal property are usually executed with powers of sale. Such powers of sale can be executed by an assignee or personal representative of any person who by assignment or otherwise becomes entitled to the money secured. Deeds of trust are in use, and in many respects are more available, especially for non-residents.

DESCENT AND DISTRIBUTION OF REAL AND PERSONAL PROPERTY.—(Rev. Code, § 1888 *et seq.*; Code of Ala. § 2252 *et seq.*)—The real and personal estate of persons dying intestate descends, subject to the payment of debts, the charges against the estate, and the widow's dower: 1st. To the children of the intestate or their descendants, *per stirpes*, in equal parts; when there is no child or one child, the widow takes one-half of the personal property; if more than one and not more than four children, she takes a child's part; *and* if more than *four* children, she takes one-fifth of the personal estate. 2d. If there are no children or their descendants, the estate descends to the brothers and sisters or their descendants in equal parts. 3d. If there are no children or their descendants, no brothers or sisters, or their descendants, then to the father, if living; if not, to the mother. And if none of these, then to the next of kin in equal degree in equal parts. If no relations, then to the husband or wife, if capable of taking; and if no relations and no husband and wife, the estate escheats to the State. The lineal descendants in equal degree represent their ancestor taking the share to which he would be entitled if living. There is no representation among collaterals, except with the descendants of the brothers and sisters of the intestate. The degree must be computed according to the civil law. No distinction is made between the whole and the half blood in the same degree, unless the inheritance came to the intestate by descent, devise, or gift from or of some one of his ancestors; in which case all those who are not of the blood of such ancestor are excluded from the inheritance as against those of the same degree.

Posthumous children of the intestate inherit as if born in his life-time. No right of inheritance accrues to any other person unless born at the death of the intestate.

Illegitimate children inherit of their mother in whole or in part as if born in wedlock. When the next of kin from alienage are incapable of taking, the estate descends to the nearest of kin who is a citizen of the United States.

Where an inheritance descends to several, they take as tenants in common.

If a married woman having a separate estate die, the husband is entitled to one-half of the personalty of such estate absolutely and to the use of the realty during life, unless he has been deprived of all control over it by decree of the chancery court.

DOWER.—The widow is entitled to dower of all lands of which the husband was seized in fee during the marriage, or to which another was seized in fee to his use, or to which at the time of his death he had a perfect equity, having paid the purchase-money thereof.

The quantity of her dower interest is as follows: When the husband dies leaving no lineal descendants, and his estate is solvent, one-half of all his lands for life; if his estate is insolvent or he leaves lineal descendants, one-third part thereof. (Code of Ala. § 2232 *et seq.*) Relinquishment of dower. See *Deeds*.

EXEMPTIONS.—The personal property of any resident of this State, to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution or other process of any court issued for the collection of any debt contracted since the 13th day of July, 1868. Every homestead, not exceeding eighty acres of land, the dwelling and appurtenances thereon, to be selected by the owner, and not in a city, town, or village, or in lieu thereof, at the option of the owner, any lot in a city, town, or village, with dwelling and appurtenances thereon, owned and occupied by any resident of the State, and not exceeding the value of two thousand dollars, shall be exempted from sale on execution, or any other process from a court, for any debt contracted since the 13th day of July, 1868. The right of exemption hereinbefore secured may be waived by an instrument in writing, and when such waiver relates to realty the instrument must be signed by both husband and wife, and attested by one witness.

Such exemption does not extend to any mortgage lawfully obtained; but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same. The homestead of a family, after the death of the owner, is exempt from the payment of debts contracted since the 13th of July, 1868, in all cases during the minority of the children; or if the owner dies leaving a widow and no children the same shall be exempt for her benefit, and the rents and profits thereof shall inure to her benefit.

This exemption does not extend to cases of laborers' liens for work done and performed for the person claiming such exemptions or on a mechanic's lien for work done on the premises. (Constitution, 1875.)

Exemption by Statute. (Code of Ala. § 2820.)—The personal property of any resident of this State, to the value of one thousand dollars, to be selected by him. The homestead of every resident, not exceeding one hundred and sixty acres of land, and appurtenances thereon, not exceeding two thousand dollars in value, owned and occupied by such resident, to be selected by the owner thereof, or, in lieu thereof, any lot in a city, town, or village, with the dwelling and appurtenances thereon, said lot not to exceed two thousand dollars in value. This exemption does not prevent a laborer's lien for work done and performed for the person claiming an exemption, nor a mechanic's lien for work done on the premises. No mortgage or other alienation of any homestead exempted by this act, by the owner thereof, if a married man, shall be valid without the voluntary signature and assent of the wife, acknowledged before a supreme or circuit court judge, chancellor, judge of probate, or justice of the peace. The wages, salaries, or compensation of laborers and all employees for personal service, to the amount of twenty-five dollars per month, are exempt. The homestead of a family, not exceeding in value two thousand dollars, if in any city, town, or village, and not exceeding one hundred and sixty acres in quantity, and two thousand dollars in value, when the same is not in any city, town, or village, after the death of the owner thereof, and personal property to the value of one thousand dollars, of any resident of this State, after his death, is exempt from the payment of debts, provided such decedent leaves surviving him a widow or child. In addition to the exemptions heretofore allowed, there are the further exemptions of the wearing apparel of the deceased, the wearing apparel of the widow and children, all yarn and cloth on hand intended for their use and consumption, the family bibles and books, all family portraits and miniatures, and such grain, stores, and groceries on hand as may be necessary for the subsistence of the family for twelve months, all of which is to be set apart by three disinterested persons, to be selected, two of them by the widow, if there be one, and one by the judge of probate, and if there be no widow, then by three such persons to be appointed by the judge of probate, and turned over to the family forever free from administration and the debts of the deceased; and any live stock necessary for the subsistence of the family may be killed for their use at any time before the final settlement of the estate.

In addition to the above there are exempt lots in cemeteries or elsewhere used for burial places, pews in churches, all necessary and proper wearing apparel for each member of the family, all family portraits, and books used in the family.

Any resident of the State may waive, by an instrument in writing, his claim for the exemption of any property which is now or may be exempted from sale on execution or other process of any court, issued for the collection of any debt contracted either since the 13th day of July, 1868, or after the 5th day of December, 1875. (Const. art X. *passim*, p. 145; Code of Ala. § 2846.) Any person entering into a written contract or other obligation may in writing waive his exemptions, either in whole or in part, specifying the part to which the waiver applies. Such waiver, if it relates to personal property, may be included in the contract or other obligation, and the intention to make the waiver must be clearly expressed; but if the waiver relates to realty, it must be made by a separate written instrument, signed by both husband and wife, if the resident has a wife, attested by one witness; and if the waiver is by a married man of the homestead right, or any part thereof, it must contain the voluntary signature and assent of the wife, whose separate acknowledgment must be taken and certified as in the case of a conveyance of a homestead. (Const. art. X. § 7, p. 145; Code of Ala. § 2847.)

MARRIED WOMEN.—What was known as the Married Woman's Law in Alabama, embraced in Code of 1876, from section 2704 to 2732 inclusive, and adjudicated by many decisions of supreme court, was repealed by act February, 1887. That act defines the rights and liabilities of husband and wife as follows: § 1. All property of wife at marri-

age, or to which she may become entitled afterwards, is her separate property and not subject to the liabilities of the husband. § 2. The earnings of wife are her separate estate, but she is not entitled to compensation for services for husband or family. § 3. All damages she may recover for injury to person or property are her separate estate. § 4. Husband not liable for contracts made or torts committed before marriage; wife remains liable as if sole. § 5. Husband not liable for wife's contract after marriage, nor for torts committed by her, unless he participates; wife alone is liable for contracts made by her with consent of husband. § 6. Wife has full legal capacity to contract as if sole, with written assent of husband. § 7. Wife must sue alone at law or equity, and be sued alone upon all contracts made by her, or torts committed. § 8. Wife cannot alienate lands or interest therein without husband joining in conveyance. *Exceptions:* If husband be *non compos*, has abandoned wife, is a non-resident of the State, or imprisoned under a two years' sentence, wife may alienate her lands as if sole. Personal property may be disposed of by husband and wife by parole or otherwise. If living apart, or husband *non compos*, wife disposes of it as if sole. § 9. Husband and wife may contract directly with each other, but all transactions between them are subject to rules of law as to persons in confidential relations. Wife cannot directly or indirectly become the surety of her husband. § 10. Wife may carry on business in her own name upon filing in probate court in county of their residence written consent of husband. Husband's consent not necessary in case of unsoundness of mind, abandonment of wife, or non-residence in State. § 11. All property of the wife acquired in any manner and from any person is her separate estate, subject to the provisions of this act. *Exception:* Property conveyed to an active trustee for her benefit.

The wife, having no separate estate where the husband dies leaving no lineal descendant, and his estate solvent, is entitled to be endowed of one-half; or, if he leaves lineal descendants, or his estate insolvent, one-third of all lands the husband died seized in fee simple, or to which another was seized for his use, or to which at the time of his death he had a perfect equity, having paid the purchase money. If she have a separate estate which, exclusive of rents, income, and profits, is equal to, or greater in value than her dower, interest, and distributive share in her husband's estate, estimating her dower interest in his land at seven years' rent of the dower interest, she is not entitled to dower in, or distribution of, her husband's estate. If her separate estate is less than such dower, interest, and distributive share, estimated as above, she is entitled to so much as will make it equal.

A woman attains her legal majority at the end of twenty-one years. She may marry without the consent of her parents at the age of eighteen years.

MECHANIC'S LIEN.—Every mechanic or other person who performs any work or labor, or furnishes any materials or fixtures, erection or improvement on land, or does any repairing on the same by virtue of a contract, has a lien on such building or improvement and upon the land on which it is situated to the extent of one acre. The original contractor within six months, and any laborer within thirty days, and any other person within four months, must file with the judge of probate a statement of the account and description of the property, and action must be brought to enforce the lien within ninety days from such filing.

MORTGAGES—Are executed and acknowledged in the same manner as deeds. Usually they contain a power of sale authorizing foreclosure without the intervention of a court, by publication of a notice. They may be foreclosed upon failure to pay any portion either of principal or interest, if there be a provision in the mortgage to that affect. They may be also foreclosed by bill in equity. There are two years for redemption allowed in each case. A woman cannot mortgage her statutory separate estate, for the purpose of subjecting it to sale, for the payment of the husband's debt. There is no statute as to how mortgages shall be discharged, being governed by common law. (Code of Ala. § 2877.)

WILLS.—All persons of the age of twenty-one years, and of sound mind, may devise lands or any interest therein, by their last will; persons of the age of eighteen years may also dispose of all their personal property by their last will. No will is effectual (except nuncupative wills, by which only five hundred dollars' worth of property can be bequeathed), unless the same is in writing, signed by the testator, or some person in his presence, and by his direction, and attested by at least two witnesses, who must subscribe their names thereto in the presence of the testator. Wills are executed out of the State in the same way as within the State. They are recorded in the office of the judge of the probate court. (Code of Ala. §§ 2274 *et seq.*)

ALASKA:

Alayeska, *Alaksa*, *Alashka*, and finally *Alaska*.

Discovered by Vitus Bering in 1741; purchased in 1867 from Russia by the United States; quasi-civil government established by act of July 27, 1868.

Area: In square miles, 577,390; in acres, 369,529,600; usually divided into six geographical divisions, to wit:

The Arctic division, 125,215 square miles; the Yukon division, 176,715 square miles; the Kuskokvim division, 114,975 square miles; the Aleutian division, 14,610 square miles; Kadiak division, 70,884 square miles; southeastern division, 29,980 square miles.

Estimated extreme length, north and south, 1,100 square miles; extreme breadth estimated at about 800 miles. Yukon river is the great highway through the country; navigable in summer upwards of 700 miles; coast line upwards of 4,000 miles.

Sitka, residence of governor and seat of bishop of Greek church.

Taxable property, $10,000,000.

Population—Whites, 5,000; Creoles, practically white, 1,800; Aleuts and natives, 33,000—total, 39,800.

The principal location of the whites is on the so-called "Thirty-mile strip" of main land lying in front of the British possessions—a geographical division extending from Dixon's entrance to Mount St. Elias and the islands of the Alexandria Archipelago, and covers a strip of 29,000 square miles. White population is reported as rapidly increasing. Progress of natives in education satisfactory, and many are settling down to industrial employments.

Climate along coast cloudy and foggy Long continued low temperatures. No extremes of temperature in southeastern Alaska during day or month; equable all the year round. Mean annual temperature (in 1886–'87) 43.2°. Heavy rainfall.

Little developement of agricultural resources. Crops few and light; comparative experiments. Cereals, except corn, it is believed, can be grown to perfection in certain parts of Alaska. Climatic conditions of the Aleutian Islands and the country around Sitka, including the island of Kadiak, best in Territory for agriculture and horticulture. Abundant and luxuriant growth of grasses, and the winters of southeastern Alaska mild and equable. Excellent for cattle industry.

Mineral resources claimed to be unsurpassed, gold and silver having been discovered in considerable quantities in different localities, but as yet only one paying quartz mine developed, the great Paris mine on Douglas Island; monthly product of mine in bullion, $100,000. Evidences of other metals (iron, copper, cinnebar, etc.), abundant. Excellent white marble on Lynn channel; coal of good quality on Cook's Island; sulphur in large quantities in volcanic districts.

Other mining companies are forming with large capitals for early operations.

Immense forests of timber, spruce, pine, cedar, hemlock, etc. Timber of excellent quality, and suitable for house, boat-building and other purposes. Only 5 or 6 saw mills in the Territory—not of sufficient capacity to supply half of the home market demand. Cause non-extension of general land laws over the Territory.

Fur trade very valuable; furs abundant and in great variety—fur seal, sea and land otter, beaver, red fox, black or silver fox, arctic fox, martin, brown and black bear, etc.

Fisheries extensive and very valuable. Vast shoals of salmon, halibut, and cod, herring, etc., along coast in rivers and creeks—all one

vast reservoir of fish. Value of salmon, halibut, and cod catch (1886), including oil, $725,000. Nine canneries and 7 salting houses independent of canneries. Canned salmon output (1887), 240,000 cases of four dozen one pound tins each, or 11,520,000 pounds; and salted salmon, 14,000 pounds—total market value $1,800,000. Product of whale fisheries (1886), 600,000 gallons of oil, valued at $150,000. and bone, 250,000 pounds, valued at $750,000. Annual cod catch about 5,000,000 pounds, valued at $200,000. Value of halibut catch and of refined oil from herring, $100,000. Market value of fisheries (1887), $3,000,000.

Commerce valuable. Product of her several industries (1887) valued at $6,950,000.

Mail and transportation facilities wholly inadequate to business requirements.

ARIZONA:

A name derived from an Indian word signifying "*Sand hills.*" Discovered about 1526 by the Spaniards. Part of the Territory ceded by Mexico to the United States in 1848 by the treaty of Guadalupe Hidalgo, and part ceded by the same power by the Gadsden treaty, known as the "Gadsden Purchase," in 1852. Organized as a Territory by the act of February 24, 1863.

Counties, 11.

Area: In square miles, 113,196; in acres, 72,906,240.

Prescott is the capital and Tucson the largest town.

Estimated population of Territory, 90,000.

AGRICULTURAL STATISTICS:

No. of farms (1880), 767; total land in farms, 135,753 acres; improved land in farms, 56,071 acres.

Total value of farms, $1,127,946.

Farm products—crop of 1886: *Indian corn:* Product, 67,000 bushels; area in crop, 3,020 acres; average yield per acre, 22.2 bushels; value per bushel, 80 cents; total valuation, $53,600. *Wheat:* Product, 297,000 bushels; area in crop, 22,010 acres; average yield per acre, 13.5 bushels, weight per bushel, 5.75 pounds; value per bushel, 93 cents, total valuation, $276,210. *Barley:* Product, 429,000 bushels; area in crop, 22,600 acres; average yield per acre, 19 bushels; value per bushel, 90 cents; total valuation, $386,100.

Potatoes: Product, 97,000 bushels; area in crop, 1,385 acres; average yield per acre, 70 bushels; value per bushel, $1; total valuation, $97,000.

Hay: Product, 24,098 tons; area in crop, 26,775 acres; average yield per acre, .90 ton; value per ton, $14.75; total valuation, $355,446.

Total area in crop, 75,790 acres.

Total valuation of crop, $1,168,356.

Farm animals (1886): *Horses:* Number, 10,267; average price, $49; value, $503,083. *Mules:* Number, 1,882; average price, $72; value, $135,504. *Milch cows:* Number, 16,298; average price, $37.20; value, $606,286. *Oxen and other cattle:* Number, 420,000; average price, $18; value, $7,560,000. *Hogs:* Number, 16,411; average price, $5.75; value, $94,536.

Sheep: Number, 658,561; average price, $1.75; value, $1,152,482.

Wages of farm labor per month by the year: Without board, $25; with board, $16. Day wages in harvest: Without board, $1.70; with board, $1.20.

Day wages of ordinary farm labor: Without board, $1.25; with board, 90 cents.

MANUFACTURERS (1880):

No. of establishments, 66; capital, $272,600; average No. hands employed, 220; annual wages paid, $111,180; value of materials, $380,023.

Total value of products, $618,365.

MINE STATISTICS (1886):

Product of precious metals, $6,103,378.

Mining wealth great. Besides gold and silver, are found lead, copper, and other minerals. Near Prescott and Tucson is found a superior quality of lime; in San Pedro, beds of gypsum, and near Callville, deposits of pure transparent salt.

Agricultural possibilities very great. Soil of the valleys of the Colorado, Salt, Gila, San Pedro, Santa Cruz and Verde rivers very rich, with unsurpassed productive capacity. Estimated area of arable lands in the valleys of the Colorado, Salt, and Gila rivers 2,000,000 acres. Irrigation only needed to make them yield abundantly. Length of irrigating canals estimated at 400 miles, constructed at a cost of $1,000,000, with a power to reclaim 215,000 acres of land.

Two distinct climatic zones. Elevations from 4,000 to 7,000 feet above sea level north of 34th parallel, with an average summer temperature of 70°. Winter snows on these mountains feed the rivers with water. South of 34th parallel elevations above sea level from 3,000 to 5,000 feet, with a minimum temperature of 40° and a maximum temperature of 80° for eight months of the year. Planting in November; harvest early in May. Every variety of grasses, grains, fruits, and vegetables grown in the valleys. Also cotton, sugar cane, tobacco, hemp, and rice. Valleys adapted to fruit culture—apples, pears, plums, peaches, apricots, quinces, nectarines, all of delicious flavor and generous yield. Grapes most prolific. Oranges, lemons, limes, olives, figs, and pomegranates grown successfully.

Stock raising industry rapidly developed and in a flourishing condition. Sheep raising and wool growing a prominent industry.

Railroad mileage, 1,050.04. Atlantic and Pacific crosses the Territory north of its central part, and the Southern Pacific from east to west. The Maricopa and Phœnix connects the City of Phœnix, the county seat of Maricopa county, via Tempe, with the Southern Pacific road at or near Maricopa station. The Prescott and Arizona Central connects Prescott with Prescott Junction on the Atlantic and Pacific road. Ready railroad communication east and west. These railroads are rapidly developing and securing markets for the mineral, agricultural, and horticultural products of the Territory.

Pine, oak, and juniper forests along mountain ranges. Chief timber tract near center of Territory; in length nearly 200 miles, with average width of about 50 miles, making 10,000 square miles, or 6,400,000 acres.

A liberal and progressive system of public schools.

Territorial and congressional elections Tuesday after first Monday in November; senators, 12—representatives, 25; biennial sessions of

legislature in even numbered years; sessions limited to 60 days; terms of senators and representatives, 2 years each.

Legal interest rate, 10 per cent.; by contract, any rate; no penalty for usury.

DEEDS.—Every conveyance whereby real estate is conveyed or affected shall be acknowledged, or proved and certified, in the manner hereinafter provided: 1st. If acknowledged or proved within the Territory, by some judge or clerk of a court having a seal, or some notary public or justice of the peace of the proper county. 2d. If acknowledged or proved without this Territory and within the United States, by some judge or clerk of any court of the United States, or of any State or Territory, having a seal, or by any commissioner appointed by the governor of this Territory for that purpose. 3d. If acknowledged or proved without the United States, by some judge or clerk of any court of any State, kingdom, or empire, having a seal, or by any notary public therein, or by any minister, commissioner, or consul of the United States appointed to reside there.

DOWER.—This right is abolished. (Comp. Laws, 1877, p. 326, § 1953.)

DESCENT AND DISTRIBUTIONS.—When a person shall die leaving a widow or minor child or children, the widow, child, or children, until letters shall have been granted and inventory returned, shall be entitled to possession of the homestead, wearing apparal of the family, household furniture of the deceased, and to a reasonable provision for their support, to be allowed by the probate judge. (Comp. Laws, 1877, § 1657.) Upon the return of the inventory, or at any subsequent time during administration, the court or judge may set apart for the use of the family of deceased all personal property which is by law exempt from execution, and the homestead. (Ib. § 1658.) If the whole property exempt by law be not included in the inventory, and if the amount set apart be insufficient for the support of the widow and children, the probate court shall make such reasonable allowance out of the estate as shall be necessary for the maintenance of the family according to their circumstances, during the progress of the settlement of the estate; which, in case of an insolvent estate, shall not be longer than one year after granting letters. (Ib. § 1659.) Any allowance made in accordance with this chapter shall be paid in preference to all other charges except funeral expenses and the expenses of administration. (Ib. § 1610.)

The following shall be set apart for the use of the widow or minor child or children, and shall not be subject to administration: 1st. All spinning-wheels, weaving-looms, and stoves put up or kept for use. 2d. The family bible, family pictures, and school books and library, not exceeding in value two hundred dollars. 3d. All goats or sheep to the number of twenty, with their fleeces, and the yarn or cloth manufactured from the same; two cows, five swine, with the necessary food for them for six months. 4th. All wearing apparel of the widow and children, and all household goods, furniture and utensils, not exceeding in value seven hundred and fifty dollars. 5th. The homestead, consisting of any quantity of land not exceeding twenty acres, and the dwelling house thereon, with its appurtenances, not being included in any incorporated town or city, with water rights or privileges sufficient to irrigate the same, or, instead thereof, a quantity of land not exceeding one lot in any incorporated town or city, and the dwelling house thereon and its appurtenances, to be selected by the widow, or, if there be no widow, to be designated by the probate judge, and not to exceed in any case more than five thousand dollars in value. (Ib. § 1611.) When the property shall have been set apart for the use of the family, in accordance with the provisions of this chapter (20), if the deceased shall have left a widow and no minor child such property shall be the property of the widow; if he shall have left also a minor child or children, the one-half of such property shall belong to the widow and the remainder to the child, or in equal shares to the children, if there be more than one; if there be no widow, the whole shall belong to the minor child or children. (Ib. § 1612.) There are some other provisions relating to estates of less value than five hundred dollars, and others relating to estates of less value than two thousand dollars, which provide for a summary disposition of them. (Ib. §§ 1613, 1614.)

EXEMPTIONS.—The homestead, consisting of a quantity of land, together with the dwelling house and its appurtenances, water right pertaining thereto sufficient to irrigate the land, all not exceeding in value five thousand dollars, is exempt from forced sale, but "such exemption shall not extend to any mechanic's, laborer's, or vendor's lien, or to any mortgage lawfully obtained; but no mortgage, sale or alienation of any kind whatever of such land by the owner thereof, if a married man, shall be valid without the signature of the wife to the same, acknowledged by her separately and apart from her husband; provided that such signature and acknowledgment shall not be necessary to the validity of any mortgage upon the land executed before it became the homestead of the debtor, or executed to secure the payment of the purchase money."

And the following property is exempt from levy or sale under execution, viz: 1st. All spinning-wheels, weaving looms, with the apparatus, and stoves put up and kept for use in any dwelling house. 2d. A seat, pew, or slip occupied by such person or family in any house or place of public worship. 3d. All cemeteries, tombs, and rights of burial, while in use as repositories of the dead. 4th. All arms and accoutrements kept for use; all wearing apparel of every person or family. 5th. The library and school books of every individual and family, not exceeding one hundred and fifty dollars in value, and all family pictures. 6th. To each householder ten goats or sheep, with their fleeces, and the yarn or cloth manufactured from the same; two cows, five swine, and provisions and fuel for the comfortable subsistence of such householder and family for six months.

7th. To each householder all household goods, furniture, and utensils, not exceeding the value of six hundred dollars. 8th. The tools, implements, materials, stock, apparatus, team, vehicle, horses, harness, or other things to enable any person to carry on the profession, trade, occupation, or business in which he is wholly engaged, not exceeding in value six hundred dollars: provided that no property shall be exempt from execution upon a judgment recovered for the purchase money of such identical property, either by virtue of this or any other statute [as amended in 1881]. 9th. One sewing machine and one musical instrument. 10th. A sufficient quantity of hay, grain, feed, and roots for properly keeping for three months the animals in the several subdivisions of this section exempted from execution, and any chattel mortgage, bill of sale, or other lien created on any part of the property above described, except such as is mentioned in subdivision eight, shall be void, unless such mortgage, bill of sale, or lien be signed by the wife of the party making such mortgage or lien (if he have one).

MARRIED WOMEN.—All property of the wife owned by her before marriage, and that acquired afterward by gift, bequest, devise, or descent, shall be her separate property. (Comp. Laws, 1877, § 1967.)

The husband shall have the management and control of the separate property of the wife, but no sale or alienation thereof can be made, nor can it be incumbered, unless by an instrument in writing signed by both husband and wife and acknowledged by her upon an examination separate and apart from her husband, before a justice of the supreme court, probate judge, or notary public, or, if executed out of the Territory, before some judge of a court of record or before a commissioner appointed under the authority of this Territory to take acknowledgments of deeds. (Act of December 30, 1865; Comp. Laws, 1877, § 1972.) But the Act of January 23, 1871, provides that "married women of the age of twenty-one years and upwards shall have the sole and exclusive control of their separate property, and may convey and transfer lands or any estate or interest therein, vested in or held by them in their own right, and without being joined by the husband in such conveyance, as fully and perfectly as they might do if unmarried. (Comp. Laws, 1877, § 2000.) The separate property of the wife is not liable for her husband's debts although it is liable for her own debts.

Married woman may become sole traders and carry on business in their own names, by complying with the provisions of §§ 24-29, ch. 32, Comp. Laws, 1877. They may sue and be sued concerning their separate property as though unmarried.

Marriage contracts may be recorded in the office of the county recorder, and such record imports constructive notice of their contents. An inventory of the separate property of the wife, acknowledged or proved in the manner required by law for the acknowledgment or proof of conveyances of real estate and recorded in the office of the county recorder wherein the parties reside and the filing of such inventory in the recorder's office, shall be notice of the title of the wife. (Comp. Laws, 1877, §§ 1969-1971.)

MECHANICS' LIENS.—Every person performing labor upon or furnishing materials to the value of twenty-five dollars for the construction, alteration, or repair of any building or other structure, railroad, tramway, tollroad, canal, water ditch, flume, aqueduct, reservoir, bridge, fence, or other structure or improvement, or performing labor or furnishing materials, to the value of twenty-five dollars on any mine, may have a lien thereon, and on the land necessary for the convenient use and occupation of the same. Every original contractor within ninety days after the completion of the contract, and every other person claiming lien, within sixty days after completion of building, etc., must file for record with the county recorder a claim containing a statement under oath of his demands after allowing credit, name of owner if known, and employer, terms of contract, and description of property. Any claimant other than original contractor must give notice of lien to owner within five days after filing.

Suit to enforce lien must be brought within ninety days after filing. Any mechanic has a lien on articles of personal property made or repaired for owner, and may sell such articles at the expiration of two months, at public auction—first giving twenty days' notice. Wood cutters, foundry men, and machinists are also entitled to liens.

MORTGAGES—On real estate must be executed and recorded like deeds, and the remedy for enforcing them is by civil action. After sale under decree of foreclosure, the mortgagor has six months to redeem by paying amount of bid and eighteen per cent. thereon and such taxes as may have been paid by the purchaser.

Satisfaction may be entered in the margin of the record book, and signed and acknowledged by the mortgagee in presence of the recorder, or it may be by a separate instrument executed and recorded in the same manner as the mortgage. (Comp. Laws, 1877, §§ 2281, 2283.)

Refusal or neglect to execute and acknowledge a certificate of discharge of a mortgage after performance of the conditions thereof for seven days and after being requested, and after tender of his reasonable charges, makes the mortgagee liable to the mortgagor for one hundred dollars, and for actual damages occasioned by such refusal or neglect.

WILLS.—Every person "of full age" (it seems the age of majority in both sexes is twenty-one years) may dispose of his or her property, real and personal, subject to the payment of his or her debts, by will; and any estate acquired by a testator after making his or her will shall pass in like manner, if such appears to have been the intention of the testator. To be valid, wills must be in writing, signed by the testator, or by some person in his presence and by his express direction, and attested and subscribed in the presence of the testator and of each other by two or more competent witnesses; except nuncupative wills in which the value of the estate bequeathed shall not exceed three hundred dollars and proved by two competent witnesses; and except in cases of any soldier being in actual military service, or of any mariner being on ship-board, who may dispose of their wages and other personal estate by nuncupative wills. The statute provides in great detail the manner in which wills shall be executed. (Comp. Laws, 1877, ch. 28.)

ARKANSAS:

From Kansas, an Indian word signifying "*Smoky Water*"—"*Good Potato*"—with the French prefix of *arc*, meaning "*bow*." Also called the "BEAR STATE." Settled by the French in 1685. Formed out of the so-called "Louisiana Purchase" ceded to the United States in 1803 by France. Originally the southern part of Missouri. Separated from Missouri and Territorial government established under the name of Arkansas by act of March 2, 1819. A convention of its people framed a Constitution and March 1, 1836, memorialized Congress for admission into the Union. Admitted by act of June 15, 1836. Seceded March 4, 1861; readmitted June 22, 1868.

Area: In square miles, 52,203; in acres, 33,410,063. Frontage on Mississippi river about 400 miles.

Counties, 75.

Little Rock the capital and metropolis; population (1880), 13,138. Hot Springs in Garland county celebrated for their medicinal qualities; temperature of water, 140°.

Temperature at Little Rock: In winter, 42° to 51°; in summer, 79° to 82°. Rainfall at Fort Smith, 40 inches—at Washington, 55 inches.

Population in 1880 of State, 802,525.

AGRICULTURAL STATISTICS:

No. of farms (1880), 94,433; total land in farms, 12,061,547 acres; improved land in farms, 3,595,603 acres.

Total value in 1880 of farms, $74,249,655.

Value of farming implements and machinery, $4,637,497.

Farm products of 1886: *Indian corn:* Product, 42,140,000 bushels; average yield per acre, 20.4 bushels; area in crop, 2,069,176 acres; value per bushel, 49 cents; total valuation, $20,648,600. *Wheat:* Product, 1,815,000 bushels; weight per bushel, 58 pounds; average yield per acre, 7.8 bushels; area in crop, 231,357 acres; value per bushel, 85 cents; total valuation, $1,542,750. *Rye:* Product, 34,000 bushels; average yield per acre, 7.9 bushels; area in crop, 4,282 acres; value per bushel, 80 cents; total valuation, $27,200. *Oats:* Product, 4,749,000 bushels; average yield per acre, 18 bushels; area in crop, 263,848 acres; value per bushel, 42 cents; total valuation, $1,994,580.

Potatoes: Product, 808,000 bushels; average yield per acre, 67 bushels; area in crop, 12,513 acres; value per bushel, 63 cents; total valuation, $527,940.

Hay; Product, 35,047 tons; average yield per acre, 1.07 tons; area in crop 32,671 acres; value per ton, $10.80; total valuation, $378,508.

Tobacco: Product, 2,108,000 pounds; average yield per acre, 875 pounds; area in crop, 2,409 acres; value per pound, 7½ cents; total valuation, $158,100.

Cotton: Product, 660,872 bales; average yield per acre, 0.488 ton; area in crop, 1,354,788 acres; value per pound, 8 cents 2 mills; total valuation, $26,662,228.

Total area in crop, 3,971,044 acres; total valuation of crop, $51,939,906.

Wages of farm labor per month by the year: Without board, $18.34; with board, $12.50. Day wages in harvest: Without board, $1.30; with board, 97 cents. Day wages of ordinary farm labor: Without board, 93 cents; with board, 65 cents.

Farm animals (January 1, 1888): *Horses:* Number, 179,955; average price, $59.34; value, $10,678,480. *Mules:* Number, 122,457; average price, $74.02; value, $9,063,660. *Milch cows:* Number, 304,404; average price, $14.63; value, $4,453,431. *Oxen and other cattle:* Number, 469,057; average price, $9.81; total valuation, $4,603,415. *Hogs:* Number, 1,538,360; average price, $2.56; value, $3,938,202.

Sheep: Number, 220,167; average price, $1.41; value, $310,127.

MANUFACTURES (1880):

No. of establishments, 1,202; capital, $2,953,130; No. of hands employed, 4,557; total annual wages paid, $925,358; value of materials, $4,392,080.

Value of manufactured products: Flouring and grist mills, $2,249,280. Lumber, sawed, $1,793,848, Oil, cottonseed, and cake, $590,000. All other industries, $2,123,022.

Total value of manufactured products, $6,756,159.

MINE STATISTICS (1880):

Bituminous coal: Product, 14,778 tons; value, $33,535.

Iron ores in Ozark Mountains; salt springs near Ouachita; coal along Arkansas river; kaolin in Pulaski county, and oilstone near the Hot Springs.

Railroads, June 30, 1887: Mileage, 1,804.21; total track, 1,853.17 miles; locomotives, 147; total revenue cars, 4,353.

Presidential and congressional elections Tuesday after first Monday in November; State elections biennial in even numbered years; biennial sessions of the legislature in odd numbered years, meeting second Monday in January; sessions limited to 60 days; senators, 31—representatives, 94; term of senators, 4 years—of representatives, 2 years.

Electoral college, 7.

Colleges, 5; school age, 6-21; school population, 289,617.

Legal interest rate, 6 per cent.; by contract, 10 per cent. Usury forfeits principal and interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—When deeds are acknowledged or proved in this State, proof or acknowledgment may be taken before the supreme or circuit court, or either judge or clerk thereof, or the clerk of any court of record, or any justice of the peace or notary public. Anywhere else in the United States, before any court of the United States or any State or Territory having a seal, or the clerk thereof, mayor or chief officer of any city or town having a seal of office, or notary public, or any commissioner for the State of Arkansas. Out of the United States, before any court of any state, kingdom, or empire having a seal, or any mayor or chief officer of any city or town having an official seal, or before any officer of any foreign country who by its laws is authorized to take probate of the conveyance of real estate of his own country, if he have an official seal. The proof of the execution of a deed is made by one or more of the subscribing witnesses making affidavit before the proper officer or court that he saw the grantor subscribe it, or had heard him acknowledge that he had subscribed and executed it for the purposes and consideration therein mentioned, and that he or they had subscribed it as witnesses at his request. If the witnesses are dead or cannot be had, proof of the handwriting of the grantor and that of at least one of the subscribing witnesses may be proved by two or more disinterested witnesses swearing to each signature. The husband must join in conveyance of wife's lands, if the lands were acquired before October 13, 1874. If acquired since that time, she can convey either as a single person, or in the form prescribed by the statute for conveyances by married women. If the grantor is unknown to the officer or court, his identity can be established by affidavits indorsed on the conveyance. After a deed is filed for record it is notice to all the world, but recording is not compulsory. (Ib. ch. 27.)

When husband and wife convey lands of the husband, the certificate of acknowledgment must show that the wife acknowledged her relinquishment of dower; but not when the lands conveyed belong to the wife. Neither deeds nor mortgages are required to be filed for record within any specified time, but mortgages are not liens until filed for record.

Seals are not required.

TRUST DEEDS—Must be acknowledged and filed the same as mortgages. See mortgages.

DESCENT AND DISTRIBUTION OF PROPERTY.—Real and personal property descend, first, to children and their descendants, in equal parts; second, if there be no children, then to the father, then to the mother; if no mother, then to the brothers or sisters, or their descendants, in equal parts; third, if there be no children, father, mother, brothers, or sisters, nor their descendants, then to the grandfather, grandmother, uncles, aunts, and their descendants, in equal parts, and so on in other cases without rest, passing to the nearest lineal ancestor and their children and descendants, in equal parts. Where there are descendants of the intestate the property descends to them *per capita* if in

equal degree and *per stirpes* in unequal degree. In case of real estate, if the inheritance was ancestral and came from the father's side, then it will go to the line on the part of the father, not in postponement but in exclusion of the mother's line, and *e converso* where the inheritance came from the mother's side. If the inheritance is not ancestral, but a new acquisition, then, after a life estate reserved in succession to the father and mother, if alive, it will go in remainder, first, to the line of the intestate's paternal uncles and aunts and their descendants, in postponement of the mother's line until the former becomes extinct; and then to the line of the intestate's maternal uncles and aunts and their descendants, unless there should be kindred lineal or collateral, who either in right of propinquity or by right of representation, stand in a nearer relationship to the intestate than the uncles and aunts; in which case such nearer kindred would take the inheritance to the exclusion of both of these collateral lines; and in their hands it would become an ancestral estate, and afterwards go in the blood of the relative whence it came in the ordinary course of descent prescribed for ancestral inheritances. The half blood and their descendants take personalty as well as realty, equal with the whole blood, except that they are excluded from real estate when ancestral, if they lack the blood of the transmitting ancestor. Posthumous children of the intestate inherit as if born in the life of the intestate, but other posthumous children not born at his death do not inherit from him. Illegitimate children are capable of inheriting and transmitting an inheritance on the part of the mother. (Mansfield's Dig. ch. 49.)

DOWER.—A widow is entitled to dower or one-third of all lands of which the husband was seized of an estate of inheritance during marriage, not relinquished by her in legal form, during her life; also absolutely to one-third part of the personal estate of all kinds of her husband. If the husband died leaving no children, his widow is entitled to dower of one-half of the lands and one-half of the personalty in her own right. (Ib. ch. 58.)

EXEMPTIONS.—The exemption law is contained in the present Constitution, and is as follows: "Section 1. The personal property of any resident of this State, who is not married or the head of a family, in specific articles to be selected by such resident, not exceeding in value the sum of two hundred dollars, in addition to his or her wearing apparel, shall be exempt from seizure on attachment, or sale on execution or other process from any court, issued for the collection of any debt by contract; provided that no property shall be exempt from execution for debts contracted for the purchase money therefor while in the hands of the vendee. Sec. 2. The personal property of any resident of this State, who is married or the head of a family, in specific articles to be selected by such resident, not exceeding in value the sum of five hundred dollars, in addition to his or her wearing apparel, and that of his or her family, shall be exempt from seizure on attachment, or sale on execution, or other process from any court, on debt by contract. Sec. 3. The homestead of any resident of this State, who is married or the head of a family, shall not be subject to the lien of any judgment or decree of any court, or to sale under execution, or other process thereon, except such as may be rendered for the purchase money, or for specific liens, laborers' or mechanics' liens for improving the same, or for taxes, or against executors, administrators, guardians, receivers, attorneys for moneys collected by them, and other trustees of any express trust, for moneys due from them in their fiduciary capacity. Sec. 4. The homestead outside any city, town, or village, owned and occupied as a residence, shall consist of not exceeding one hundred and sixty acres of land, with the improvements thereon, to be selected by the owner; provided the same shall not exceed in value the sum of twenty-five hundred dollars, and in no event shall the homestead be reduced to less than eighty acres, without regard to value. Sec. 5. The homestead in any city, town, or village, owned and occupied as a residence, shall consist of not exceeding one acre of land, with the improvements thereon, to be selected by the owner; provided the same shall not exceed in value the sum of two thousand five hundred dollars, and in no event shall such homestead be reduced to less than one-quarter of an acre of land, without regard to value. Sec. 6. If the owner of a homestead die, leaving a widow, but no children, and said widow has no separate homestead in her own right, the same shall be exempt, and the rents and profits thereof shall vest in her during her natural life: provided that if the owner leaves children, one or more, said child or children shall share with said widow, and be entitled to half the rents and profits till each of them arrives at twenty-one years of age—each child's right to cease at twenty-one years of age—and the shares to go to the younger children; and then all to go to the widow; and provided that said widow or children may reside on the homestead, or not. And in case of the death of the widow, all of said homestead shall be vested in the minor children of the testator or intestate. . . . Sec. 9. The exemptions contained in the Constitution of 1868 shall apply to all debts contracted since the adoption thereof, and prior to the adoption of this Constitution. Sec. 10. The homestead provided for in this article shall inure to the benefit of the minor children, under the exemptions herein provided, after the decease of the parents." (Const. 1874, art. IX.) Homestead cannot be sold or mortgaged without wife joining; and if husband fails to claim it, it may be claimed by wife.

MARRIED WOMEN.—The Constitution (Art. XIV.) provides as follows: "Sec. 7. The real and personal property of any *feme covert* in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise, or otherwise, shall, so long as she may choose, be and remain her separate estate and property, and may be devised, bequeathed, or conveyed by her the same as if she were a *feme sole;* and the same shall not be subject to the debts of her husband. Sec. 8. The general assembly shall provide for the time and mode of scheduling the separate personal property of married women."

The legislature has passed an act providing for the scheduling of the separate property of married women. Failure to schedule such property leaves the burden of proof on the wife to show the character in which it is held. (Ib. §§ 2634—2640.)

A wife's separate property is not liable for any debts contracted by her, unless the contract was made with special reference to its being so liable. (Adams *vs.* Stillwell, 29 Ark. 346.)

MECHANIC'S LIEN.—A mechanic or other person performing any work or labor or furnishing any material or fixture, erection or improvement on land, or doing any repairing on the same by virtue of a contract, has a lien on such building or improvement, and upon the land upon which it is situated not exceeding two acres. He must file with the clerk of the circuit court of the county where the land is, within ninety days after ceasing to labor, a just and true account of the claim, and description of the property and suit must be begun within nine months thereafter by a contractor, and within six months by a sub-contracter.

MORTGAGES—Acknowledged the same as deeds, and are not liens until filed for record, though good between the parties. They may be foreclosed by bill in equity. Sales of personalty under decree are made on a credit of three months. Sales of land on not less than three nor more than six months, the purchaser giving bond with surety, having force of a judgment, and a lien being retained on lands sold for the price. Personal decree is also given for amount due on mortgage, and may be enforced by execution either before or after sale of mortgaged property, for any amount due. Mortgages may be released by entry of satisfaction on the margin of the record of the mortgage in the recorder's office by the mortgagees. (Ch. 110.)

Property, real or personal, sold under mortgages and deeds of trust shall bring two-thirds of its appraised value: provided that this does not apply to sales of property for the purchase money thereof. If the property shall not bring two-thirds of its appraised value, then in case of personalty another offering may be made in sixty days, or, in case of realty, in one year, when the sale shall be made to the highest bidder without reference to value. The realty may be redeemed by the mortgagor at any time within one year from the sale thereof, by paying the amount the property sold for, ten per cent. interest, and costs.

The mortgagee or trustee before sale shall apply to a justice of the township where the sale is to be made to appoint three appraisers, who shall appraise the property under oath, and they or any two shall make a written report to the trustee or mortgagee, which shall be open to the parties interested.

WILLS.—Every person over twenty-one years old may devise realty and personalty, and all persons over eighteen may bequeath goods and chattels by last will and testament. Every will must be executed as follows: First, it must be subscribed by the testator at the end of the will, or by some person for him at his request; second, such subscription shall be made by the testator in the presence of each of the attesting witnesses, or shall be acknowledged by him to have been so made to each of the attesting witnesses; third, at the time of such subscribing or acknowledgment the testator shall declare the instrument so subscribed to be his last will and testament; fourth, there shall be at least two attesting witnesses, each of whom shall sign his name as a witness at the end of the will at the request of the testator; fifth, where the entire body and signature of the will are in the handwriting of the testator it may be established by the unimpeachable evidence of at least three disinterested witnesses to the handwriting and signature of the testator without subscribing witnesses; but no such will shall be pleaded in bar of one subscribed in due form. Nuncupative wills may be made during last illness, and must be proved by two witnesses, and are not good where the estate bequeathed exeeds five hundred dollars. (Mansfield's Dig. ch. 155.)

Wills are proved and recorded in the office of the clerk of the probate court of the county in which the testator resided at the time of his death. If he had no known place of residence in this State, and land is devised, then in the county where the land or the greater part thereof lies. If no land is devised, then in the county where he died, or that in which his estate or the greater part thereof shall lie, or where there may be any debt or demand owing to him.

CALIFORNIA:

In Spanish signifying "*Hot Furnace.*" Held by some to be derived from the Arabic *Khalifah*, from *Khalafa*, successor, the caliphs being the acknowledged successors of Mahomet. The peninsula called "Lower" or "Old California" laid down in some early geographies as an island, and treated in the romances of the period as abounding in treasures of gold, was discovered and named California in 1535 by Cortez. The State is also called "THE GOLDEN STATE." Settled in 1768 at San Diego by the Spaniards, it subsequently formed part of Mexico, and was ceded by that power February 28, 1848, by the treaty of Guadalupe Hidalgo, to the United States. The discovery of gold in 1849 caused its rapid settlement, and its inhabitants framing a constitution, it was admitted as a State September 9, 1850.

Area: In square miles, 157,801; in acres, 100,992,640. Over 700 miles of coast line.

Counties, 52.

Sacramento city is the capital; population in 1880, 21,420. San Francisco the rich and thriving metropolis, its harbor the best on the Pacific coast, and the only port of entry in the State; population, 233,959. Regular steam communication with China, Japan, Australia, Panama, and Mexico. Oakland: population, 34,555; Bridgeport city: population, 27,643; Los Angeles: population, 11,183; Stockton: population, 10,282. U. S. navy yard at San Pablo.

Temperature: At San Francisco, in winter, 50° to 55°; in summer, 58° to 69°. Rainfall at Sacramento, 20 inches.

Population in 1880, 864,694. Chinese, 75,132; Japanese, 86: Indians, 16,277.

A splendid agricultural country. Soil rich and prolific; climate beautiful and healthy, and harvests abundant with comparatively light toil; often two crops a year on the same land.

AGRICULTURAL STATISTICS:

No. of farms (1880), 35,994; total land in farms, 16,593,742 acres; total improved land in farms, 10,669,698 acres; unimproved land in farms, 5,924,044 acres.

Value of farms, $262,051,282; value of farming implements and machinery, $8,447,744.

Average value per acre, for cleared land, $27.16; for woodland, $8.55.

Farm products—crop of 1886: *Wheat:* Product, 36,165,000 bushels; average yield per acre, 11.6 bushels; area in crop, 3,104,640 acres; weight per bushel, 59 pounds; value per bushel, 73 cents; total valuation, $26,400,450. *Indian corn:* Product, 4,262,000 pounds; average yield per acre, 27.2 bushels; area in crop, 156,752 acres; value per bushel, 62 cents; total valuation, $2,642,440. *Barley:* Product, 16,038,000 bushels; average yield per acre, 22.2 bushels; area in crop, 722,450 acres; value per bushel, 65 cents; total valuation, $10,424,700. *Oats:* Product, 2,317,000 bushels; average yield per acre, 28.8 bushels; area in crop, 80,348 acres; value per bushel, 44 cents; total valuation, $1,019,480. *Rye:* Product, 365,000 bushels; average yield per acre, 12 bushels; area in crop, 30,409 acres; value per bushel, 76 cents; total valuation, $277,400.

Hay: Product, 1,296,234 tons; average yield per acre, 1.34 ton; area in crop, 967,469 acres; value per ton, $8.15; total valuation, $10,564,307.

Potatoes: Product, 4,753,000 bushels; average yield per acre, 78 bushels; area in crop, 60,940 acres; value per bushel, 66 cents; total valuation, $3,136,980.

Most other vegetables in like profusion.

Total area in crop, 5,123,018 acres; total valuation of farm products, $54,465,757.

Farm animals, January 1, 1888: *Horses:* Number, 307,004; average price, $71; total value, $21,797,255. *Mules:* Number, 38,824; average price, $85.03; total value, $3,301,389. *Milch cows:* Number, 250,773; average price, $33; value, $8,275,509. *Oxen and other cattle:* Product, 692,267; average price, $20.50; value, $14,194,447. *Sheep:* Number, 5,462,728; average price, $1.88; value, $10,291,779. *Hogs:* Product, 1,047,842; average price, $4.62; value, $4,836,000.

Fine sheep raising country. Cashmere goats introduced and thriving.

Dairy products—1880: Milk, 12,353,178 gallons; butter, 14,084,405 pounds; cheese, 2,566,618 pounds.

Wool clip, 16,798,036 pounds.

Wages per month by the year of farm laborers—1888: Without board, $38.08; with board, $25.67. Day wages in harvest: Without board, $2.25; with board, $1.85. Day wages of ordinary farm labor: Without board, $1.60; with board, $1.18.

The grape succeeds admirably, and is profitably manufactured into wine. Varieties grown belong to the species *Vitis vinifera.* Thousands of acres in a single vineyard. The Napa valley almost wholly given up to the culture of the vine. Seventeen tons of grapes grown on a single acre; frequently 10 tons per acre.

The manufacture of raisins a leading industry in San Joaquin valley, as also in the valeys of Sonoma, the Sacramento, Santa Anna, and Santa Clara. San Diego raisins equal any made in Europe; El Cajon fruit famous.

Grape region extends north to 41°; average breadth, 100 miles.

Plum product abundant, and fruit delicious; dried equal in quality to best foreign brands.

Vast tracts of the olive. Oranges, apples, peaches, pears, etc., produced in large quantities and in qualities excellent.

Subtropical nuts abundant.

MANUFACTURES—1880:

No. of establishments, 5,885; capital, $61,243,784; average No. hands employed, 43,693; amount paid in wages, $21,065,905; value of materials, $72,607,709; value of products, $116,218,973.

Embracing the manufacture of agriculture implements valued at $586,338; bags and othe paper; boots and shoes; carriages and wagons; fruits and vegetables canned; furniture; leather; iron and steel; tobacco, cigars, and cigarettes; shipbuilding, etc., etc., etc.

Wool products valued at $1,634,858.

Lumber products valued at $4,428,950.

MINING STATISTICS—1880:

Gold: Output, 829,676.7 ounces; value, $17,150,941. Silver: Output, 890,158.2 ounces; value, $1,150,887.

Total value of gold and silver output, $18,301,828.

Coal: Output, 236,950 tons; value, $663,013. Copper ingots, 720,000 pounds.

Total assessed valuation in 1880 of real estate and personal property, $584,578,036.

Railroads, June 30, 1881: Mileage, 4,265; total track, 4,843 miles; locomotives, 802; total revenue cars, 19,057.

Governor and State officers elected quadriennially and legislature every 2 years; senators, 40—representatives, 80; sessions of legislature biennial in odd numbered years, meeting first Monday after January 1; limit of session, 60 days; term of senators, 4 years—of representatives, 2 years.

Electoral college, 8.

Schools excellent. School age, 5-17. School population, 216,330.

Legal interest rate, 7 per cent.; by contract, any rate.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANIC'S LIENS, MORTGAGES, AND WILLS.

DEEDS, ACKNOWLEDGMENTS, ETC.—An estate in real property other than an estate at will or for a term not exceeding one year can be transferred only by operation of law, or by an instrument in writing subscribed by the party disposing of the same, or by his

agent thereunto authorized by writing. If the grantor be unable to write his mark is sufficient if his name is written near it by a person who writes his own name as a witness. Such transfer in writing is called a "grant." The word "grant" used in any conveyance of an estate of inheritance or fee simple implies that the grantor has not prior thereto conveyed the same estate or any interest therein, and that such estate is at the time of conveyance free from any incumbrances done, made, or suffered by the grantor or any person claiming under him. Such covenants may be sued upon the same as if expressly inserted in the conveyance.

The following form is a sufficient grant: I, A. B., grant to C. D. all that real property situated in (insert name of county) county, State of California, bounded (or described) as follows: (Here insert description, or, if the land sought to be conveyed has a descriptive name, it may be described by the name as, for instance, "the Norris Ranch.)"

Witness my hand this day of 18 A. B.

In order to make a deed available as evidence, its execution must be proved as any other instrument of writing, unless the deed be acknowledged or proved as hereinafter explained, and if so acknowledged or proved, it is received in evidence without further proof.

An instrument so acknowledged or proved may be recorded in the office of the recorder of the county wherein the land is situate, and the record is constructive notice of the contents thereof to subsequent purchasers and mortgagees.

Deeds, though not recorded, are valid and binding between the parties thereto, and also upon all persons having actual notice of the same; but are void as against any subsequent purchaser or mortgagee of the same property, or any part thereof, in good faith and for a valuable consideration, whose conveyance is first duly recorded. An attaching creditor is not protected against such unrecorded deed, if the deed be recorded before any sale under the judgment in such action.

Witnesses are not necessary to the validity of a deed or other instrument affecting title to realty, except wills.

The deed of a married woman has no validity unless it be *acknowledged;* in other cases *proof* of execution may be made by a subscribing witness.

Wherever the name of the owner of any real estate is from any cause changed, his conveyance thereof must set forth the name in which he or she derived title to said real estate.

The proof or acknowledgment of an instrument may be made within this State before a justice or clerk of the supreme court, or a judge of the superior court, and, within the city and county or district for which the officer was elected or appointed, before either a clerk of a court of record, a court commissioner, county recorder, notary public, or a justice of the peace. (C. C. § 1181.)

If proved or acknowledged out of this State, but in the United States and within the jurisdiction of the officer, it may be before a justice, judge, or clerk of a court of record of the United States, any justice or judge of any court of record of any State, a notary public, or a commissioner appointed by the governor of this State for that purpose; also before any other officer of the State where the acknowledgment is made, authorized by its laws to take such proof or acknowledgment. (C. C. § 1182.)

If taken or made out of the United States, before a minister, commissioner, or *charge d'affaires* of the United States resident and accredited in the country where the proof or acknowledgment is made, or a consul, vice-consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made, or a judge of a court of record of the country where the proof or acknowledgment is made, or a commissioner appointed for such purpose by the governor pursuant to special statutes, or a notary public. (C. C. § 1183.)

Certificates of acknowledgment must be authenticated by the signature of the officer, followed by his name or title of office, and his official seal affixed, if by the law under which he is acting he is required to have an official seal. The seal may be made by an impression on the paper, or on wax or other substance attached.

All distinctions between sealed and unsealed instruments are abolished. (C. C. § 1629.)

A written instrument is presumptive evidence of consideration. (C. C. § 1614.)

TRUST DEEDS—To secure the payment of money, are in frequent use in this State, but as they deprive the debtor of the right of redemption, they are not looked upon with favor, and are rarely used by private persons.

DESCENT OF REAL AND PERSONAL PROPERTY.—When any person dies intestate, his property, after payment of debts and expenses of administration, unless limited by marriage settlement, is distributed as follows:

If the deceased leaves a surviving husband or wife, and only one child, in equal shares to each; if more than one child, one-third goes to the surviving consort and the balance to the children in equal shares. The children of a deceased child take by the right of representation; but if all of the descendants are in the same degree of kindred to the decedent they share equally. If the decedent leave no husband or wife but leave issue, the whole estate goes to such issue.

If the deceased leaves no children, the surviving consort takes one-half, and the other half goes to the decedent's father and mother in equal shares, and if either be dead the whole of said half goes to the other. If there be no father or mother, then one-half goes in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister by right of representation.

If the decedent leave no issue, nor husband or wife, the estate goes to his father and mother in equal shares, or, if either be dead, then to the other. If there be neither issue, husband, wife, father, nor mother, then in equal shares to the brothers and sisters and to the children of any deceased brother or sister by right of representation.

If deceased leaves a surviving husband or wife, and no issue, father, mother, brother, nor sister, the whole estate goes to such survivor.

If the deceased leaves none of the aforementioned, the estate goes to the next of kin in equal degree; and if there are two or more collateral kindred in equal degree, but claiming through different ancestors, those claiming through the nearest ancestor must be preferred.

If the decedent leave several children, or one child and the issue of one or more children, and any such surviving child dies under age not having been married, all the estate that came to the deceased child by inheritance from such decedent goes in equal shares to the other children of the same parent and to the issue of any such other children who are dead, by right of representation. If at the death of such child who dies under age not having been married, all the other children of his parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from its parent descends to the issue of all other children of the same parent.

If the decedent be a widow or widower and leave no kindred, and any portion of the estate was common property of such decedent and his or her deceased spouse, such common property shall go to the father of such deceased spouse, or, if he be dead, to the mother, or, if both be dead, to the brothers and sisters of such deceased spouse, in equal shares, and to the lawful issue of any deceased brother or sister of such spouse by right of representation.

If the decedent leaves no husband, wife, or kindred, and there be no heirs to take his estate or any portion thereof under the preceding clause, the estate escheats to the school fund of the State. (C. C. § 1386.)

The foregoing provisions as to the inheritance of the husband and wife from each other apply only to the separate property of the decedents.

Upon the death of the wife the entire community property without administration belongs to the surviving husband, except such portion as may have been set apart to her by judicial decree for her support and maintenance. Such portion is subject to her testamentary disposition, and in the absence of such disposition goes to her heirs exclusive of her husband. Upon the death of the husband one-half of the community property goes to the wife and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition goes to his descendants; and in the absence of both disposition and descendants is distributed in the same manner as his separate estate. Upon the death of the husband the entire community property is subject to his debts, the family allowance, and expenses of administration.

The degree of kindred is established by the number of generations, and each generation is called a degree. (C. C. § 1389.)

Kindred of the half blood inherit equally with those of the whole blood, except where the estate came to the intestate by descent, devise, or gift of some one of his ancestors, when the half blood is excluded. (C. C. § 1394.)

DOWER.—See *Married women.*

EXEMPTION.—The following property is exempt from execution for any debt, except it be for the purchase price of such property, or the debt be secured by mortgage, lien, or pledge thereon; to wit: 1st. Chairs, tables, desks, and books, to the value of two hundred dollars. 2d. Necessary household table and kitchen furniture of the debtor including one sewing machine, stoves, stove pipes and stove furniture, wearing apparel, beds, bedding, bedsteads, hanging pictures, oil paintings and drawings drawn or painted by any member of the family, family portraits and their necessary frames, provisions actually provided for individual or family use sufficient for three months, and three cows and their sucking calves, four hogs with their sucking pigs, and food for such cows and hogs for one month. 3d. The farming utensils, etc., of the judgment debtor, also two oxen, or two horses, or two mules and their harness, one cart or wagon, and food for such animals for one month, also seed grain or vegetables reserved or on hand for planting within six months, not exceeding two hundred dollars in value; and seventy-five bee-hives, and one horse and vehicle belonging to any person who is maimed or crippled, the same being necessary to his business. 4th. Tools or implements of a mechanic or artisan, notary's seal, office furniture and records; instruments of a surgeon, physician, music teacher, surveyor, or dentist, necessary to the exercise of their profession; books, professional libraries and office furniture of attorneys, judges, ministers of the gospel, editors, and school and music teachers, and all the indexes, abstracts, books, papers, maps, and office furniture of searcher of records necessary to be used in his profession. 5th. A miner's cabin, not exceeding five hundred dollars in value, also his sluices, pipes, tools, etc., necessary for his business, not exceeding five hundred dollars in value, and two horses, mules, or oxen, and their harness, and food for the same for one month, when necessary to be used for any windlass, derrick, car, pump, or hoisting gear; and the miner's claim worked by him, and not exceeding one thousand dollars in value. 6th. Two oxen, horses, or mules, and their harness and food for one month, and one cart, wagon, dray, truck, coupe, hack, or carriage for one or two horses, by the use of which a cartman, drayman, truckman, huckster, peddler, hackman, teamster, or other laborer habitually earns his living, and one horse, vehicle, and harness used by physician, surgeon, constable, or minister of the gospel in the legitimate practice of his profession or business with food for such animals for one month. 7th. Poultry worth not more than twenty-five dollars. 8th. Earnings, for personal services rendered within thirty days of levy, if the defendant swears they are necessary for the use of his family residing in the State, and supported in whole or in part by his labor; but only one-half of such earnings are exempt where the debt is for necessaries of life. 9th. Shares in homestead associations, not exceeding in value, one thousand dollars—if the debtor has not a homestead selected; nautical instruments and wearing apparel of any master, officer, or seaman of any vessel. 10th. Life insurance policies, and all benefits accruing therfrom, provided the annual premium shall not exceed five hundred dollars. 11th. All fire engines, etc. 12th. All fire arms, etc., required by law to be kept by any person, and one gun selected

by the debtor. 13th. All court houses, jails, public offices, buildings, cemeteries, etc. (C. C. P. § 690.)

Homestead.—A homestead to the extent of five thousand dollars in value, consisting of the dwelling-house where the claimant resides, together with the land on which it is situated, may be selected by the husband, or, in the case of his failure to do so, by the wife. Such selection must describe the premises and state their value, and must be acknowledged in the same manner as a conveyance, and filed for record in the county recorder's office. After such filing the premises therein described are exempt from execution or forced sale, except in satisfaction of liens existing prior thereto or created by both husband and wife, and can be aliened or incumbered only by an instrument executed and acknowledged by both husband and wife. Such selection may be made from the community property or from the separate property of the husband, or, with the consent of the wife, from her separate property. If the premises selected exceed five thousand dollars in value, a judgment creditor can apply to the superior court for an appraisement and sale thereof, and have the surplus applied in satisfaction of his judgment. Upon the death of either husband or wife the homestead, if selected from the community property, vests in the survivor, subject to the same exemptions from forced sale. The homestead can be abandoned only by a declaration of abandonment or a grant executed and acknowledged by both husband and wife and filed for record in the recorder's office. If no homestead was selected or recorded in the life time of the husband, the superior court may set one apart from his estate for the use of the family, discharged of any claim of his creditors.

Married Women, Rights of.—A married woman may hold, convey, and devise real and personal estate as freely as if unmarried, save that a conveyance by a married woman is inoperative unless acknowledged by her. She may enter into any engagement or transaction respecting property which she might if unmarried, but the property of the community is not liable for any of her contracts unless secured by a pledge or mortgage thereof executed by her husband. She is personally liable upon such contract and may be sued thereon, and her separate property may be taken to satisfy a judgment thereon. Her husband must be joined with her when she is sued except when she is living separate and apart from him, by reason of his desertion of her or their agreement to live separate. She may sue without joining him when the action concerns her separate property or her right or claim to the homestead property. Her earnings are not liable for the debts of her husband, and her earnings received while she is living separate from him are her separate property. Her separate property is liable for her debts, whether contracted before or after her marriage, but is not liable for the debts of her husband. The separate property of the husband is not liable for her debts contracted before the marriage. No estate is allowed the husband as tenant by curtesy, nor is any estate in dower allotted to the wife. (C. C. § 173.)

All property, both real and personal, of the wife, owned by her before marriage, and all that she may acquire afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, shall be her separate property, and may be sold, conveyed, mortgaged, incumbered, or assigned by her without the husband's consent. (C. C. § 162.)

All property acquired after marriage by either husband or wife, except such as may be acquired by gift, bequest, devise, or descent, shall be common property. (C. C. § 162.)

The husband has the entire management, with absolute power of disposition, other than testamentary, of the community property, except that he cannot dispose of it with a view to defraud the wife of her interest therein. The wife need not join in any conveyance of the community property made by the husband, but upon the death of the husband the wife is entitled to one-half of the community property, after payment of debts and expenses of administration. In case of divorce, the common property shall be equally divided between the husband and wife except when the divorce is granted on the ground of adultery or extreme cruelty, in which case the court apportions the property in its discretion.

Property conveyed to the wife during marriage for a valuable consideration is presumed to belong to the community and to be disposable by the husband alone; but it may be shown to have been acquired with the separate estate of the wife or to have been a gift to her from the husband. The husband can convey property directly to his wife either by way of gift or in bargain and sale. (C. C. §§ 147, 172.)

The husband and wife may make contracts and conveyances respecting property *inter sese*, subject only to the general rule as to contracts between parties occupying confidential relations. (C. C. § 158.)

A husband and wife may hold property as joint tenants, tenants in common, or as community property. (C. C. § 161.)

A married woman may transact business as a *feme sole* upon obtaining leave of the court, after petition, notice, and due proceedings under the law.

Women arrive at majority at the age of eighteen years. If a woman marries before arriving at majority the authority of a guardian of her person ceases, but not that of the guardian of her estate.

A married woman may be the executrix of a will. She cannot be appointed administratrix of an estate. If unmarried at the time of her appointment her authority ceases upon her marriage. A married woman may dispose of her estate by will without the assent of her husband.

Mechanic's Lien.—Every person performing labor upon, or furnishing materials to be used in the construction, repairing, or altering any structure, has a lien on the same for his services. The land, or the owner's interest therein, is also subject to the lien, and every original contractor within sixty days from the time of completing his contract, and every other person within thirty days, must file with the county recorder a claim stating his demand, the owner of the property, employer, and the property on which

the lien is claimed, and suit must be brought within ninety days from the date of filing the claim.

MORTGAGES.—Mortgages are executed and acknowledged in the same manner as deeds, and do not require the signature of the wife, unlesss the property about to be mortgaged is the homestead, or property in which the wife has an interest. Mortgages with a power of sale are unusual in this State. A mortgage is but a lien and does not confer upon the mortgagee the right to possession of the property mortgaged.

A mortgage can be renewed or extended only with the same formalities by which it can be created. Mortgages are foreclosed only by proceedings in equity, in which all parties having interests in the property must be made parties.

The same right of redemption after a sale under decree of foreclosure exists as in the case of sales under execution.

Mortgages are discharged by a satisfaction piece duly proved or acknowledged and recorded; or by an entry of satisfaction on the margin of the record, signed by the mortgagee and witnessed by the recorder. Wife need not join unless she be named as mortgagee.

WILLS.—Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his or her estate, real and personal, but no estate shall be bequeathed or devised to any charitable or benevolent society or corporation, or in trust for charitable uses, unless by will executed at least thirty days before the death of the testator, and the amount of all charitable devises or bequests shall not exceed one-third of the estate of the testator leaving legal heirs. (C. C. § 1313.)

Any married woman may dispose of all her separate estate by will, absolutely without the consent of her husband; but said will is to be attested and proven as other wills.

No will other than an olographic will and a nuncupative will shall be valid unless it be in writing, subscribed at the end thereof by the testator or some person in his presence, and by his express direction, and attested by two or more witnesses subscribing their names to the will in the presence of the testator and in the presence of each other. (C. C. § 1276.)

No nuncupative will shall be good when the estate bequeathed exceeds the value of one thousand dollars, nor unless the same be proved by two witnesses who were present at the making thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid some one present to bear witness that such was his will, or to that effect, nor unless it was made at a time when the decedent was in actual military service in the field, or doing duty on shipboard at sea, and in either case in actual contemplation, fear, or peril of death; or the decedent must have been at the time in expectation of immediate death from an injury received the same day. (C. C. § 1289.)

A nuncupative will must be reduced to writing within thirty days, and offered for proof within six months after the same was uttered, nor can probate thereof be granted for fourteen days after the death of the testator. (C. C. § 1290.)

An olographic will is one that is entirely written, dated, and signed by the hand of the testator himself, either in or out of this State, and need not be witnessed. (C. C. § 1277.)

A mutual will is valid, but may be revoked by either of the testators. A will may provide for its conditional validity, and will be denied probate if the conditions do not exist.

If after making a will the testator marries and his wife survives him, the will is revoked unless she is provided for therein or it is apparent therefrom that it was his intention not to make provision for her. A will executed by an unmarried woman is revoked by her marriage and is not revived by the death of her husband. If a child be born to the testator after the making of his will and is not mentioned in his will or provided for therein or by any settlement, or if the testator omit to provide for any child or the issue of any deceased child, unless it appears that such omission was intentional, such child or issue has the same share of the estate of the testator as though he had died intestate, unless the testator had in his life-time bestowed upon them an equal proportion of his estate by way of advancement.

COLORADO:

A Spanish word signifying "*Red*" or "*Colored.*" Also called the "CENTENNIAL STATE" from its having been admitted as a State and casting its first electoral vote in the centennial year, 1876. Formed out of territory acquired under the so-called "Louisiana Purchase" in 1803 from France, and from Mexico February 28, 1848, under the treaty of Guadalupe Hidalgo. Explored in 1540, under the Spanish government by Vasques Coronado; in 1806 by Lieut. Z. M. Pike, under the U. S. government; in 1820 by Major S. H. Long; and in 1842-'44, by Lieut. J. C. Fremont, in his famous expedition across the Rocky Mountains. Rapidly settled in 1858-'59 by miners upon the discovery of gold at Pike's Peak. Organized as a Territory by the act

of February 28, 1861, and finally admitted as a State August 1, 1876, by proclamation of President Grant, under the provisions of the act of March 3, 1875.

Area: In square miles, 104,500; in acres, 66,880,000.

Denver is the capital; also the metropolis and railroad center, controlling the trade of an extensive region. An assay office is established here. Population (1880), 54,308. Leadville ranks next in population: in 1880 it was 10,925. Colorado Springs: population, 4,563.

Counties, 42.

Remarkable for its mountain scenery and "peaks," for its great mineral wealth, and for its climate so favorable to consumptives.

Temperature: At Denver, in winter, 25° to 37°; in summer, 72° to 74°. Rainfall (chiefly from May to July), 15 to 20 inches.

Population of State, in 1880, 243,910.

AGRICULTURAL STATISTICS:

No. of farms (1880): 4,506; total land in farms, 1,165,373 acres; improved land in farms, 616,169 acres.

Total value in 1880 of farms, $25,109,223.

Farm products—crop of 1886: *Indian corn:* Product, 938,000 bushels; area in crop, 29,778 acres; average yield per acre, 31.5 bushels; value per bushel, 50 cents; total valuation, $469,000. *Wheat:* Product, 2,419,000 bushels; area in crop, 122,152 acres; average yield per acre, 19.8 bushels; weight per bushel, 59.5 pounds; value per bushel, 70 cents; total valuation, $1,693,300. *Rye:* Product, 42,000 bushels; area in crop, 1,909 acres; average yield per acre, 22 bushels; value per bushel, 72 cents; total valuation, $30,240. *Oats:* Product, 1,591,000 bushels; area in crop, 48,207 acres; average yield per acre, 33 bushels; value per bushel, 42 cents; total valuation, $668,220. *Barley:* Product, 193,000 bushels; area in crop, 6,876 acres; average yield per acre, 28.1 bushels; value per bushel, 62 cents; total valuation, $119,660.

Potatoes: Product, 631,000 bushels; area in crop, 8,096 acres; average yield per acre, 78 bushels; value per bushel, 57 cents; total valuation, $359,670.

Hay: Product, 115,000 tons; area in crop, 115,000 acres; average yield per acre, 1 ton; value per ton, $9.80; total valuation, $1,127,000.

Total area in above crops, 332,018 acres.

Total valuation of crop, $4,467,000.

Wages per month by the year: Without board, $36; with board, $23. Day wages in harvest: Without board, $1.87; with board, $1.35. Day wages of ordinary farm labor: Without board, $1.60; with board, $1.12.

Dairy products (1880): Milk, 506,706 gallons; butter, 860,379 pounds; cheese, 10,867 pounds.

Farm animals, January 1, 1888: *Horses:* Number, 127,483; average price, $58.34; value, $7,437,086. *Mules:* Number, 8,247; average price, $92.12; value, $759,697. *Milch cows:* Number, 63,023; average price, $37.21; value, $2,345,086. *Oxen and other cattle:* Number, 1,049,353; average price, $19.93; value, $20,918,327. *Hogs:* Number, 23,419; average price, $6.54; value, $153,103.

Sheep: Number, 1,137,686; average price, $1.98; value, $2,257,169.

Wool clip (1880): 3,197,391 pounds.

MANUFACTURES (1880):

No. of establishments, 599; capital, $4,311,714; No. of hands employed, 5,074; total wages paid during year, $2,314,427; value of materials, $8,806,762.

Value of products: Flouring and grist mill, $2,534,644; lumber, planed, $1,276,000; lumber, sawed, $1,051,295; foundry and machine shops, $1,037,522; brick and tile, $605,028; sash, door, and blinds, $580,000; bread and other bakery, $574,552; carriage and wagon, $475,000; liquor, malt, $418,902; saddlery and

harness, $320,850; printing and publishing, $307,500; slaughtering and meat packing, $1,082,690; all other industries, $3,996,176.

Total value of manufacturing product, $14,260,159.

MINE STATISTICS—1880:

Gold: Product, 130,607.6 ounces; value, $2,699,898. *Silver:* Product, 12,800,-119.8 ounces; value, $16,549,274.

Total value of precious metal product, $19.249,172.

Bituminous Coal: Product 462,747 tons; value, $1,041,350. Copper ingots: Product, 1,578 pounds. Coal deposits along the eastern border of the Rocky Mountains.

Quaries: Sandstone and crystalline silicious rocks (1880): No. of establishments, 6; capital $13,500; product 662,790 cubic feet; value, $50,400.

Total assessed valuation in 1880 of real estate and personal property, $74,-471,693.

Railroads, June 30, 1887: Mileage, 3,013.52; total tracks, 3,233.39; locomotives, 377; total revenue cars, 10,184.

Presidential, congressional, and State elections Tuesday after first Monday in November; senators, 26—representatives, 49; biennial sessions of legislature in odd numbered years, meeting first Monday in January; limit of session, 40 days; term of senators, 4 years—of representatives, 2 years.

Electoral college, 3.

Excellent public school system well supported. School age, 6–21; school population, 40,208. State university at Boulder; school of mines at Garden City; agricultural college at Ft. Collins.

Legal interest rate, 10 per cent.; any rate by contract.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Acknowledgments of deeds executed in this State may be taken before any judge of the supreme or district courts; before any clerk or deputy clerk of such courts; or before the county judge of any county, such county judge and such clerks severally certifying said acknowledgment under the seal of their respective courts; or before the clerk or recorder of any county or his deputy under the seal of such county; or before any notary public under his official seal; or before any justice of the peace in his county, provided that if the conveyance be of lands situated out of the county of such justice, his official character and signature shall be certified to by the clerk and recorder of the county of said justice, under his hand and the seal of the county. The official certificates of notaries appointed after July 2, 1887, shall designate the date of the expiration of their commissions.

When executed out-side of this State, and within the United States, or the Territories thereof, before the secretary of any such State or Territory, certified by him under the seal of such State or Territory; before the clerk of any court of record of such State or Territory, or of the United States, within such State or Territory, having a seal, such clerk certifying the same under the seal of such court; before a notary public of such State or Territory, he certifying the same under his notarial seal; before any other officer authorized by the laws of any such State or Territory to take and certify such acknowledgment; provided, there shall be affixed to the certificate of such officer, other than those above enumerated, a certificate by the clerk of some court of record of the county, city, or district wherein such officer resides, under the seal of such court, that the person certifying such acknowledgment is the officer he assumes to be, that he has authority by the laws of such State or Territory to take and certify such acknowledgment, and that the signature of such officer to the certificate of acknowledgment is the true signature of such officer; or before any commissioner of deeds for such foreign State or Territory appointed under the laws of this State, certified under the hand and official seal of such commissioner.

When executed out of the United States, before any court of record having a seal, the judge or justice of such court certifying the acknowledgment to have been made before such court, under the seal of such court; bejore the mayor or other chief officer of any city or town having a seal, certified under such seal by such mayor or other officer or before any consul of the United States within such foreign country, certified by him under the seal of his consulate.

All deeds or instruments of writing heretofore or hereafter purporting to have been executed before a notary public of any other State or Territory shall *prima facie* be deemed to have been executed before proper officers.

Witnesses are not required. Seals are abolished. See *Married Women.*

TRUST DEEDS.—They vary in terms but all convey the property to a third party as trustee for the use of the legal holder of the note to secure which the trust deed is given and contain a power of sale to the trustee on default of the payment of the note or interest or covenants and conditions in the deed, upon advertisement (usually thirty days) in a newspaper of the county. The *cestui que trust* may buy in at the sale, and the purchaser is not required to see to the application of the purchase-money. They are used almost entirely instead of mortgages.

DESCENT AND DISTRIBUTION OF PROPERTY.—Dower and tenacy by curtesy are abolished. The estate of an intestate decends to the surviving wife or husband, where no children or descendants of children are left by such intestate; but in case a child, children, or descendants of such children, then one-half of the estate goes to the surviving wife or husband, and the other half to such child, children, or descendants of children, subject, however, to the payment of debts of deceased.

Except as above enumerated, such estate descends as follows: 1st. To the surviving children and descendants of children who are dead, such descendants, collectively, taking the share which their parent would have taken if living. 2d. If there be no children, nor their descendants, then to the father; if there be no father, then to the mother; if there be no mother, then to the brothers and sisters, and to the descendants of brothers and sisters who are dead, the descendants, collectively, taking the share of their immediate ancestors in equal parts. 3d. If none of the relatives above enumerated be living, then to the grandfather, grandmother, uncles, aunts, and their descendants, the descendants taking, collectively, the share of their immediate ancestors, in equal parts. 4th. If none of the above enumerated relatives be living, then to the nearest lineal ancestors and their descendants, the descendants, collectively, taking the share of their immediate ancestors in equal parts.

Posthumous children shall inherit in like manner as if born in lifetime of intestate; children and descendants of children of the half blood shall inherit the same as those of whole blood; collateral relatives of half blood shall inherit only half the measure of collateral relatives of the whole blood. Illegitimate children shall inherit the same as those born in wedlock, if the parents subsequently intermarry, and such children be recognized by the father to be his.

Divorce of husband and wife do not affect the right of children previously begotten to inherit their property. If the decedent leaves a widow residing in this State she is allowed to retain for her sole use, and as her own property, one bed and bedding, wearing apparel for herself and family, one ewe and calf, her saddle and bridle, one horse, household furniture for herself and family, in addition to the amount and species of property that by law is exempt from execution. If she so elects, the widow may take the value of the above described property in money instead of in kind. What shall constitute the widow's allowance as to quality and value depends upon her condition in life, and is determined by appraisers appointed by the court for that purpose.

DOWER.—Dower is abolished.

EXEMPTIONS.—Every householder, being the head of a family, is entitled to a homestead of the value of two thousand dollars exempt from execution and attachment while such homestead is occupied by the owner or his or her family. Entry of homestead is made by writing the word "homestead" on the margin of the recorded title thereof, attested by the recorder with date of entry. There is also exempt from execution and attachment the necessary wearing apparel of every person, and the following property of a person being the head of a family: Family pictures, school books, and library, a seat or pew in any house of public worship, the sites of burial for the dead, all wearing apparel of the debtor and his family, all beds, bedsteads, and bedding, kept and used for the debtor and his family, all stoves and appendages kept for the use of the debtor and his family, all cooking utensils, and all the household furniture not above enumerated not exceeding one hundred dollars in value, the provisions for the debtor and his family necessary for six months, and fuel necessary for six months. The tools and implements or stock in trade of any mechanic, miner, or other person not exceeding two hundred dollars in value, the library and implements of any professional man not exceeding three hundred dollars in value, working animals of any person to the value of two hundred dollars, one cow and calf, ten sheep, and food for same for six months, one farm wagon, cart or dray, one plow, one harrow and other farming implements, including harness and tackle for team not exceeding fifty dollars in value. If the head of the family dies the family is entitled to the exemption. There is also exempt from levy on execution, attachment, or garnishment the earnings of the head of a family or of the wife of the head of a family, when such family is dependent in whole or in part upon such earnings, for thirty days preceding such levy, not exceeding one hundred dollars in amount. This last provision applies only to debts incurred after March 28, 1885.

Pension money received from the United States is exempt from all legal process, whether in the actual possession of the pensioner, deposited, or loaned, and whether the pensioner be the head of a family or not. This exemption runs to the pensioner's wife and children, or either of them, in case of his death or absconding.

MARRIED WOMEN.—A married woman may transact business the same as if sole; may dispose of her personal and real estate, or make any contract in relation to the same without her husband's consent, and may sue and be sued as if sole, and may convey her real estate without her husband's joining in the deed with her; and her acknowledgment to such deed may be taken in the same manner as her husband's. Executions may issue against her property on judgments obtained against her.

Her separate property acquired by her, or left to her by will before or after marriage, is not bound for her husband's debts. She can make contracts in her own name, buy goods, give notes in settlement of purchases, and do any business the same as if sole, and bind her own separate property real and personal.

A married woman may sue and be sued in all matters as if she were sole. A female may marry at the age of eighteen without the consent of parents or guardian. She may choose her own guardian at the age of fourteen years. Until her majority her custody and education may be disposed of by will. The minority of females ceases at the age of eighteen years for all purposes.

MECHANICS' LIENS.—A lien is allowed on personal property to the person making, altering, or repairing the same, and if it is not paid in ninety days after the work is done, it may be appraised and sold. Any person performing work, or furnishing materials on any building by virtue of a contract, has a lien on the same, and he must, within sixty days if an original contractor, or forty days if a sub-contractor, file a statement in the county recorder's office containing a notice that he claims such lien, a description of the property, and an abstract of the indebtedness, and the action to enforce the lien must be brought within six months after filing such notice.

MORTGAGES.—Trust deeds with power of sale to the trustee are generally in use. Mortgages may be released by entry of satisfaction or receipt on margin of record. Mortgages are foreclosed by suit brought for that purpose.

WILLS.—Every person twenty-one years of age, if a male, and eighteen years of age, if a female, being of sound mind and memory, may dispose of all his or her property, real and personal, by will, and all persons of the age of seventeen years may dispose by will of all their personal estate, except that a married woman shall not, without the consent of her husband in writing, bequeath away from him more than one-half of her real and personal property, and if the husband deprives the wife of over one-half of his property by will, she shall be allowed either to accept the conditions of the will or one-half the property, as she sees fit.

All wills devising lands, tenements, hereditaments, annuities, or rents must be reduced to writing and signed by the testator or testatrix, or by some one in his or her presence, and by his or her direction, and attested by two or more credible witnesses, in the presence of such testator or testatrix. Wills are recorded in the county courts out of which letters testamentary or of administration issued, and also with the recorder of each county in which the decedent owned real estate. A nuncupative will made and declared in the last sickness of the testator, in the presence of two witnesses called by him to attest the same, and by them reduced to writing within a reasonable time, and properly proved, shall be good for the devising of personal estate. A devise or bequest made in a will to a witness thereto is void as to such witness, unless there are a sufficient number of witnesses other than the one to whom the bequest or devise is made. No will, other than a nuncupative will, shall be revoked except by burning, tearing, or obliterating the same by the testator himself, or in his presence, by his direction and consent, or by another will or codicil in writing, declaring the same, signed by the testator in the presence of two or more witnesses, and by them attested in his presence. No will executed in due form of law can be revoked or annulled by word spoken.

DAKOTA:

So named after the Dakota tribe of Indians—the common name of the confederated Sioux tribes, and signifies "*Leagued.*" White settlements made by Lord Selkirk as early as 1812 at Pembina; first permanent white settlements made in 1859. Formed out the so-called "Lousiana Purchase" ceded to the United States in 1803 by France, and organized as a territory March 2, 1861.

Area: In square miles, 150,932; in acres, 96,596,480. Average length, 450 miles; breadth, 350 miles. General elevation from 1,000 to 2,000 feet. Frontage on Red River of the North 250 miles. Missouri river navigable throughout the State. The Cheyenne, Grand, White, Dakota or James, and Sioux or Moose rivers intersect the Territory. Valleys fertile and productive, well watered by the above streams and dotted with fine lakes. The highest peak of the Black Hills (the Laramie) rises 8,000 feet above the sea. A wide belt of prairie encircles the great mineral heart of the Black Hills.

Counties, 100.

Bismarck, situated on east bank of the Missouri, is the capital city and an important business center: population in 1880, 3,200. Yank-

ton the chief city of southern Dakota: population, 3,500. Fargo an enterprising city: population, 8,201. Deadwood: population, 3,778. Grand Forks: population, 4,692.

Temperature: At Bismarck, in winter, 4° to 27°; in summer, 63° to 71°. Rainfall at Ft. Randall, 17 inches, chiefly in the spring and summer.

Climate dry and equable.

Population (territorial census of 1885), 415,610, and estimated June 30, 1886, at 500,000. Immigration heavy and increasing.

AGRICULTURAL STATISTICS:

No. of farms (1880): 17,435; total land in farms, 3,830,656; improved land in farms, 1,150,413.

Total value of farms, $22,401,084.

Farm products—crop of 1886: *Indian corn:* Product, 15,805,000 bushels; area in crop, 662,625 acres; average yield per acre, 23.9 bushels; value per bushel, 37 cents; total valuation, $5,847,850. *Wheat:* Product, 30,704,000 bushels; area in crop, 2,675,350 acres; average yield per acre, 11.5 bushels; weight per bushel, 58.2 pounds; value per bushel, 52 cents; total valuation, $15,966,080. *Rye:* Product, 67,000 bushels; area in crop, 5,145 acres; average yield per acre, 13 bushels; value per bushel, 42 cents; total valuation, $28,140. *Oats:* Product, 20,651,000 bushels; area in crop, 825,600 acres; average yield per acre, 25 bushels; value per bushel, 30 cents; total valuation, $6,195,300. *Barley:* Product, 1,232,000 bushels; area in crop, 56,000 acres; average yield per acre, 22 bushels; value per bushel, 38 cents; total valuation, $468,160.

Potatoes: Product, 3,042,000 bushels; area in crop, 46,800 acres; average yield per acre, 65 bushels; value per bushel, 58 cents; total valuation, $1,764,360.

Hay: Product, 385,000 tons; area in crop, 275,000 acres; average yield per acre, 1.40 ton; value per ton, $4.25; total valuation, $1,636,250.

Total area in crop, 4,546,520 acres.

Total valuation of crop, $31,906,140.

Wages of farm labor per month by the year: Without board, $25.85; with board, $18.21. Day wages in harvest: Without board, $2.12; with board, $1.64. Day wages of ordinary farm labor: Without board, $1.35; with board, $1.10.

Greatest wheat growing section in United States.

Farm animals (January 1, 1888): *Horses:* Number, 247,459; average price, $76.21; value, $18,858,156. *Mules:* Number, 12,323; average price, $97.89; value, $1,206,340. *Milch cows:* Number, 223,418; average price, $21.67; value, $4,841,468. *Oxen and other cattle:* Number, 767,809; average price, $21.73; value $16,687,171. *Hogs:* Number, 533,970; average price, $5.94; value, $3,173,918.

Sheep: Number, 269,019; average price, $2.60; value, $700,526.

Stock raising an industry of grand importance. Value of live stock January 1, 1887, $42,828,338. Annual average increase for seven years in value of live stock, $5,000,000. Rich native grasses grow luxuriantly, and the crop is a never failing one. Grasses retain their richness throughout the year, even when uncut. Herds free from diseases.

Dairy products of 1885: Butter, 10,804,260 pounds; cheese, 116,557 pounds; milk, 1,860,358 gallons. Increase of milch cows on farm in 1885, 500 per cent. over 1880.

MANUFACTURES (1880):

No. of establishments, 251; capital, $771,428; average No. of hands employed, 860; annual wages paid, $339,375; value of materials, $1,523,761.

Value of products: Flouring and grist mill, $1,040,958; sawed lumber, $435,792; all other industries, $897,220.

Total value of products of manufactures, $2,373,970.

Wages good. Labor strikes unknown.

Deposits of petroleum, coal, salt, tin, iron, copper, lead, marble, granite, mica, asbestos, potter's clay, with the precious metals, have been discovered, some of them in considerable quantities. Product of the precious metals in 1886, $33,770,000.

The Black Hills produce all the gold and silver mined in the Territory.

Whole country west of the Missouri river and large part of northern Dakota underlaid with a deposit of lignite coal in veins 18 feet thick.

Forest area of territory estimated at 3,000,000 acres: yellow or Norway pine, black and white spruce, burr oak, white elm, aspen, white birch, ash, and juniper. About 8,000 square miles of Black Hills covered with timber of merchantable qualities; more than 20,000,000 feet of pine logs annually manufactured into lumber; none exported. Other sections prolific in forests.

Total assessment of property in 1887, $157,084,356.99.

Total railroad mileage, owned and operated, January 1, 1887, 3,491. Nine steamboats engaged in river traffic, handling annually upwards of 16,000,000 pounds of freight.

School system and number of schools and institutions of education unsurpassed.

Territorial and congressional elections Tuesday after first Monday in November; senators, 12—representatives, 24; sessions biennial in odd numbered years, meeting second Tuesday in January; sessions limited to 60 days; term of senators and representatives, 2 years each.

Legal interest rate, 7 per cent.; by contract, 12.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS—May be made by husband to wife, or wife to husband. The wife need not join in a conveyance of land belonging to her husband, nor is it necessary that the husband shall join in conveyance of land belonging to his wife; except homesteads, in which case, if the owner is married, and both husband and wife are residents of the Territory, both must concur in and sign the same joint instrument.

An estate in real property, other than an estate at will, or for a term not exceeding one year, can be transferred only by operation of law, or by an instrument in writing, subscribed by the party disposing of the same, or by his agent thereunto authorized by writing. The execution of a grant of such estate in real property, if it is not duly acknowledged, must, to entitle the grant to be recorded, be proved by a subscribing witness or as otherwise provided by law.

TRUST DEEDS—Are not in general use in this Territory.

DESCENT.—Where a person dies intestate, his property, except the homestead and certain personal property, after payment of debts, and expenses of administration, unless limited by marriage contract, is distributed as follows: If the decedent leaves a surviving husband or wife, and only one child, in equal shares to each; if more than one child, one third goes to the surviving husband or wife, and the remainder to the children in equal shares. The children of the deceased child take by right of representation. If the decedent leaves no children, the surviving husband or wife takes one-half, and the other half goes to the decedent's father, and if he have no father living, then in equal shares to the brothers and sisters and mother, and to the children of any deceased brother or sister by right of representation. If the decedent leaves no issue, nor husband nor wife, the estate goes to the father; and if there be no father, to the brothers and sisters and mother, as aforesaid. If decedent leaves no husband, wife, father, brothers nor sisters living, the estate goes to his mother, to the exclusion of the issue of any deceased brothers or sisters. If the decedent leaves a surviving husband or wife, and no issue, father, mother, brother, nor sister, the whole estate goes to the surviving husband or wife. If the decedent leaves none of the aforementioned, the estate goes to the next of kin in equal degree; if there are two or more collateral kindred in equal degree, but claiming through different ancestors, those claiming through the nearest ancestors must

be preferred; and if a surviving child dies under age and unmarried, his share goes to the surviving brothers and sisters, and to the children of deceased brothers and sisters by right of representation. If the decedent leaves no husband, wife, nor kindred, the estate escheats to the school fund of the Territory. The degree of kindred is established by the number of generations, and each generation is called a degree. Kindred of the half blood inherit equally with those of the whole blood, unless the inheritance came to the estate by decent, division, or gift of some one of his ancestors, when those of the half blood are excluded. (C. C. §§ 776-787.)

DOWER.—Dower and Curtesy are abolished.

EXEMPTIONS.—All family pictures; a pew or other sitting in any house of worship; a lot or lots in any burial ground; the family bible, and all other school books used by the family, and all other books used as a part of the family library not exceeding in value one hundred dollars; all wearing apparel and clothing of the debtor and his family; the provisions for the debtor and his family necessary for one year's supply, either provided or growing, or both, and fuel necessary for one year; the homestead, as created, defined, and limited by law. In addition to the above mentioned property, the debtor may by himself or his agent select, from all other of his personal property not absolutely exempt, goods, chattels, merchandise, money, or other personal property, not to exceed in the aggregate fifteen hundred dollars in value, which is also exempt.

Instead of the fifteen hundred dollar exemption, the debtor may select and choose the following property, which shall then be exempt, namely: All miscellaneous books and musical instruments for the use of the family, not exceeding five hundred dollars in value; all household and kitchen furniture, including beds, bedsteads, and bedding, used by the debtor and his family, not exceeding five hundred dollars in value; and in case the debtor shall own more than five hundred dollars' worth of such property, he must select therefrom such articles to the value of five hundred dollars, leaving the remainder subject to legal process; three cows, ten swine, one yoke of cattle and two horses or mules, or two yoke of cattle, or two span of horses or mules, one hundred sheep and their lambs under six months old, and all wool of the same, and all cloth or yarn manufactured therefrom, the necessary food for the animals hereinbefore mentioned for one year, either provided or growing or both, as the debtor may choose; also, one wagon, one sleigh, two plows, one harrow, and farming utensils, including tackle for teams, not exceeding three hundred dollars in value; the tools and implements of any mechanic, whether a minor or of age, used and kept for the purpose of carrying on his trade or business, and, in addition thereto, stock in trade not exceeding two hundred dollars in value. The library and instruments of any professional person, not exceeding six hundred dollars in value.

No personal property is exempt, except that absolutely exempt, from execution for laborer's or mechanic's wages, or physician's bills, or for debt incurred for property obtained under false pretenses.

Except those made absolute, the exemptions do not apply: To a corporation for profit; to a non-resident; to a debtor who is with his family removing from the Territory, or who has absconded, taking with him his family. A partnership firm can claim but one exemption of fifteen hundred dollars in value, or the alternative property, when so applicable, instead thereof, out of the partnership property, and not a several exemption for each partner. (C. C. P. §§ 322-334.) After the debtor's death, such exempt property is set apart for the benefit of the surviving wife or husband, or the minor children, and is not liable for any prior debts or claims against the decedent, except when there are no assets available for the payment of the necessary expenses of his last illness, funeral charges, expenses of administration. (Prob. C. § 129.)

No property is exempt from execution for the purchase-money of the same property. (Laws 1883, ch. 50.)

HOMESTEAD.—The homestead of every family resident in this Territory, whether owned by the husband or wife, so long as it remains a homestead, is absolutely exempt, except for taxes, mechanics' liens for work, labor, or materials done or furnished exclusively for the improvement of the same; and debts created for the purchasee thereof. If within a town plat it must not exceed one acre in extent, and if not within a town plat it must not embrace in the aggregate more than one hundred and sixty acres, with the house and buildings appurtenant thereon; and is without limitation in value. Such exemption continues after the debtor's death, for the benefit of the surviving husband or wife and children; and if both husband and wife be dead, till the youngest child becomes of age. (Rev. Codes, ch. 38.)

MARRIED WOMEN.—A married woman may own, in her own right, real and personal property, acquired by descent, gift, or purchase, and manage, sell, convey, and devise the same to the same extent and in same manner as if she was unmarried. Contracts may be made by a married woman, and liabilities incurred, and the same enforced by or against her, to the same extent and in the same manner as if unmarried. Neither husband nor wife has any interest in the property of the other, but neither can be excluded from the other's dwelling. Either husband or wife may enter into any engagement or transaction with the other, or with any other person, respecting property, which either might enter into if unmarried; subject, in transactions between themselves, to the general rules which control the actions of persons occupying confidential relations with each other as defined by the law of trusts. A husband and wife may hold real or personal property together jointly or in common. Neither husband nor wife, as such, is answerable for the acts of the other.

The earnings of the wife are not liable for the debts of the husband; and the earnings and accumulations of the wife, and of her minor children living with her or in her custody, while she is living separate from her husband, are the separate property of the wife. The separate property of the husband is not liable for the debts of the wife con-

tracted before the marriage. The separate property of the wife is not liable for the debts of her husband, but is liable for her own debts, contracted before or after marriage.

A wife's separate property is not liable for debts contracted for the support of herself, her children, or the family, as her husband's agent.

A married woman may buy and sell goods, give notes or other obligations, and sue and be sued, same as if unmarried. (C. C. §§ 75–85.)

Women attain their majority at eighteen. (C. C. § 10.)

MECHANICS' LIENS.—Every mechanic or other person who performs labor or furnishes material, machinery, or fixtures for any building, erection, or improvement upon land, has a lien therefor upon the building and land. Notice of lien must be filed with the clerk of the district court, by a sub-contractor within sixty days and by a contractor within ninety days after performing the labor or furnishing materials.

No lien is allowed when other security is taken.

MORTGAGES.—A mortgage of real property can be created, renewed, or extended only by writing, with the formalities required in the case of grant of real estate; the wife need not join only in mortgage of homestead. Mortgages containing power of sale may be foreclosed, by advertisement, without the intervention of the court, and the premises sold at public auction to satisfy the mortgage debt. Mortgages may be foreclosed by action and a personal decree obtained in the same action against the mortgagor for any deficiency from the debt and costs arising on the sale of the mortgaged premises. A mortgage may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage in the presence of the register of deeds, or upon the record by a certificate duly executed, acknowledged, or proved, and certified and recorded, same as the mortgage. The mortgagor has possession of the premises during the year of redemption after the sale. A mortgage of a homestead shall be of no validity unless the husband and wife, if the owner is married, and both husband and wife are residents of this Territory, concur in and sign the same joint instrument. (C. C. §§ 1723–1736.)

WILLS.—Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his estate, real and personal. An olographic will is one entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this Territory, and need not be witnessed. Every will other than a nuncupative will must be in writting; and every will other than an olographic will and a nuncupative will be executed and attested as follows: It must be subscribed at the end thereof by the testator himself, or some person in his presence and by his direction must subscribe his name thereto; the subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them to have been made by him or by his authority; the testator must, at the time of subscribing or acknowledging the same, declare to the attesting witnesses that the instrument is his will; and there must be two attesting witnesses, each of whom must sign his name as a witness at the end of the will, at the testator's request and in his presence.

A witness to a written will must write, with his name, his place of residence; and a person who subscribes the testator's name, by his direction, must write his own name as a witness to the will. But a violation of this section does not affect the validity of the will.

A will of real or personal property, or both, or a revocation thereof, made out of this Territory by a person not having his domicile in this Territory, is as valid, when executed according to the law of the place in which the same was made, or in which the testator was at the time domiciled, as if it were made in this Territory, and according to the provisions of this chapter.

No provisions made for proof of wills made out of the Territory different from those made within.

A married woman may dispose of all her separate estate by will, without the consent of her husband, and may alter or revoke the will in like manner as if she were single. Her will must be executed and proved in like manner as other wills. A will executed by an unmarried woman is revoked by her subseqent marriage, and is not revived by the death of her husband. (C. C. §§ 683-709()

A foreign will may be admitted to probate upon the production of a copy of the same, and the probate thereof duly authenticated with a petition for letters, by the executor, or any other person interested in the will, to the probate judge.

Wills are recorded in the office of the probate judge. (Prob. C. §§ 27–30.)

If after making a will the testator marries and the wife survives him, the will is revoked, unless provision has been made for her by marriage contract, or in the will, or it is apparent therefrom that it was not his intention to make provision for her. If a child be born to the testator, after making his will, and is not mentioned in his will or provided for therein or by any settlement, or if the testator omits to provide for any of his children, or for the issue of any deceased child, unless it appears that such omission was intentional, such child or the issue of such child succeeds to the same portion of the testator's property that he would have succeeded to if the testator had died intestate. (C. C. §§ 708, 715.)

FLORIDA:

Also called "the PENINSULA STATE." Juan Ponce de Leon fitted out an expedition in search of the fabled island of Bimini, in which was situated "the Fountain of Youth," or "the fountain the waters

of which would give eternal youth," and landing near the site of San Augustine on Easter Sunday (Pascua Florida, "*Feast of Flowers*") in 1512, gave to the land, in honor of that day, the name of Florida. Don Pedro Menendez, a captain of the celebrated Philip II. of Spain, "the master of the two Indies," founded San Augustine August 25, 1565. Ceded to the United States by Spain by the treaty of February 22, 1819. East and west Florida organized as one Territory by the acts of March 30, 1822, and March 3, 1823, and admitted by the act of March 3, 1845, as a State into the Union.

Area: In square miles, 56,268; in acres, 37,931,520. Atlantic and Gulf coast line 1,146 miles; length north and south, 350 miles; east and west, 340 miles; mean width of peninsula, 100 miles; highest elevation, 250 or 300 feet.

Counties, 45.

Cleared land valued at $9.48 per acre; woodland at $3.03 per acre.

Climate very fine. Frost in southern portion unknown, and very light in the northern. Air dry and equable, rivaling that of southern Italy. Thousands of persons resort to it to escape the rigorous northern winters. Rainy season between June and October.

Temperature: At Jacksonville, in winter, 55° to 61°; in summer, 80° to 83°. Rainfall at Ft. Meyers, 57 inches.

Surface level but undulating; dotted with a great number of lakes, some of them navigable, which, with numerous rivers (the St. Johns, Indian, Caloosahatche, Withlacooche, Suwanee, etc.), furnish ample facilities for internal transportation.

Southern portion an extensive swamp—the famous lake called "the Everglades," filled with islands covered with a dense jungle or growth of tall rank grass; area, 160 miles in length—width, 60 miles, with a depth of from 1 to 6 feet.

Tallahassee the capital: population. 2,494. Key West the metropolis: has good harbor and naval station—population, 9,890. San Augustine the oldest town in the United States.

Population, 269,493.

Principal products those of tropical regions: Cotton, coffee, cocoa, sugar cane, tobacco, rice, indigo, etc. Oranges, bananas, pine apples, olives, grapes, lemons, limes, pomegranates, etc., flourish luxuriantly.

AGRICULTURAL STATISTICS:

No. of farms (1880), 23,438; total land in farms, 3,297,324; unimproved land in farms, 947,640.

Total value of farms, $20,291,835.

Farm products—crop of 1886: *Indian corn:* Product, 4,597,000 bushels; area in crop, 441,074 acres; average yield per acre, 10.4 bushels; value per bushel, 71 cents; total valuation, $3,263,870. *Oats:* Product, 489,000 bushels; area in crop, 51,467 acres; average yield per acre, 9.5 bushels; value per bushel, 63 cents; total valuation, $308,070.

Potatoes: Product, 134,000 bushels; area in crop, 1,996 acres; average yield per acre, 67 bushels; value per bushel, $1; total valuation, $134,000.

Cotton: Product, 59,332 bales; area in crop, 270,738 acres; average yield per acre, .219 bale; value per pound, 8 cents 2 mills; total valuation, $2,286,653.

Total area in crop, 765,275 acres.

Total valuation of crop, $5,992,593.

Wages of farm labor per month by the year: Without board, $18; with board, $11.33. Day wages in harvest: Without board, $1.04; with board, 78 cents. Day wages of ordinary farm labor: Without board, 95 cents; with board, 70 cents.

Orchard products (1880), valued at $758,295, chiefly oranges, lemons, and limes.

Tobacco (1880), 21,182 pounds. Rice product, 1,294,677 pounds. Sugar, 1,273 hogsheads; molasses, 1,029,868 gallons.

Farm animals, January 1, 1888: *Horses:* Number, 32,743; average price, $80.87; value, $2,647,961. *Mules:* Number, 12,496; average price, $96.02; value, $1,190,895. *Milch cows:* Number, 52,822; average price, $16.32; value, $862,055. *Oxen and other cattle:* Number, 576,912; average price, $8.56; value, $4,941,078. *Hogs:* Number, 307,051; average price, $2.05; value, $628,840.

Sheep: Number, 92,888; average price, $1.96; value, $182,061.

Immense ranges of forests of pine, magnolia, live and water oak, laurel and other valuable timber great sources of wealth. Live oak valuable for ship-building.

MANUFACTURES (1880):

No. of establishments, 426; capital, $3,210,680; average number hands employed, 5,504; annual wages paid, $1,270,875; value of materials, $3,040,119.

Value of products: Flouring and grist mills, $337,780; sawed lumber, $3,060,291; tar and turpentine, $295,500; tobacco, cigars, and cigarettes, $1,347,555; all other industries, $505,322.

Total value in 1880 of products of manufactures, $5,546,448.

Fisheries (1880): Persons employed, 2,480; capital invested, $406,117; value of product, $643,227.

Presidential, congressional, and State elections Tuesday after first Monday in November; senators, 32—representatives, 76. Biennial sessions of legislature in odd numbered years, meeting Tuesday after first Monday in January; limit of session 60 days; term of senators, 4 years—of representatives, 2 years.

Electoral college, 4.

Public school system. School age, 4–21 years.

Legal interest rate, 8 per cent.; by contract any rate.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANIC'S LIENS, MORTGAGES, AND WILLS.

DEEDS.—No estate or interest of freehold or for a term of more than two years, or any uncertain interest of, in or out of any messuages, lands, tenements, or hereditaments, shall be created, made, granted, conveyed, transferred, or released in other manner than by deed in writing sealed and delivered in the presence of at least two witnesses, by the party creating, making, granting, conveying, transferring, or releasing such estate, interest, or term of years, or by his, her, or their agent thereto lawfully authorized, unless by last will and testament. (McClellan's Digest, p. 214.)

All deeds, mortgages, or other conveyances, by which any right, title, interest, or claim to any real estate in this State may be conveyed, affected, defeated, impaired, or released, all powers of attorney relating to the same, and all instruments under seal, to be used or recorded in this State, in order to entitle the same to be so used or recorded, in case the same shall be acknowledged out of this State, shall be acknowledged by the party or parties executing the same, or the execution thereof by said party or parties shall be proved by a subscribing witness thereto before a commissioner duly appointed by the governor of Florida. In those cities or counties where no commissioner is appointed, or where he is unable to act, the acknowledgment or proof may be taken before the chief justice, judge, presiding justice, or president of any court of record of the United States, or of any State or Territory thereof, having a seal and a clerk or a prothonotary; but no proof or acknowledgment taken by any such party shall entitle such deed, power of attorney, or conveyance to be recorded, unless taken within some place or district to which

the jurisdiction of the court to which he belongs shall extend, and the place of taking such acknowledgment be by him set forth in his certificate of acknowledgment, and also that the court of which he is such chief justice, judge, presiding justice, or president, is a court of record; the certificate shall state that the party taking the acknowledgment knows or has satisfactory proof that the person making such acknowledgment is the individual described in and who executed the deed or instrument under seal; the certificate of acknowledgment of such chief justice, judge, presiding judge, or president, shall be accompanied by the certificate of the clerk or prothonotary of the court for which he is such judge, justice, or president as aforesaid, under the seal of said court, that he is duly appointed or authorized as such judge, justice, or president, etc.

On the 24th of February, 1873, "An act providing for the acknowledgment of deeds and other conveyance of lands" was approved and became a law. (Acts of 1873, p. 18.) This act is thought to enlarge and not to supersede the provisions of the former laws on the same subject. It is as follows: "Section 1. Deeds executed in this State of lands, or any interest in lands therein, shall be executed in the presence of two witnesses, who shall subscribe their names to the same as such, and the persons executing such deeds may acknowledge the execution thereof before any judge, clerk of the circuit court, notary public, or justice of the peace within the State, and if any such deed or conveyance of land shall be executed in any other State, Territory, or District of the United States, such deed may be executed according to the laws of such State, Territory, or District, and the execution thereof may be acknowledged before any judge or clerk of a court of record, notary public, justice of the peace, or other officer authorized by the laws of such State, Territory, or District to take acknowledgment of deeds therein, or before any commissioner appointed by the governor of this State for such purpose. Section 2. If such deed be executed in any foreign country it may be executed according to the laws of such country; any execution thereof may be acknowledged before any notary public therein, or before any minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, or consul of the United States appointed to reside therein, or before a commissioner appointed by the governor of this State for such purpose, which acknowledgment shall be certified therein by the officer taking the same under his hand, and his seal of office shall be affixed to such certificate. Section 3. If any such deed or other conveyance shall be executed and acknowledged in any other State or country, before any officer not having an official seal, he shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record or certificate of the secretary of state, minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, or consul (as the case may be), that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be; that he believes the signature of such person subscribed thereto to be genuine, and that the deed is executed and acknowledged according to the laws of such State, Territory, District, or foreign country. Section 4. Any deed or conveyance heretofore executed and acknowledged in compliance with the provisions of this act shall have the same force and effect, and be as valid as if the same had been executed after the passage of this act. Section 5. Every conveyance of real estate within this State hereafter made, which shall not be recorded in the county in which the lands are situated within six months after the execution thereof, shall be void as against any subsequent purchaser." (McClellan's Digest, pp. 218, 219.)

In Carr *vs.* Thomas, 18 Fla. 736, the supreme court decided that § 5 above is inoperative and void under § 14 of art. 4 of the Constitution, which provides "that each law enacted in the legislature shall embrace but one subject, and matters properly connected therewith, which subject shall be briefly expressed in the title."

By the act of 1885, "all deeds of conveyance, bills of sale, mortgages, or other transfers of property, either real or personal, within the limits of this State, which are required for any purpose to be recorded, shall be deemed to have been recorded from the date the same is presented and filed with the officer required to record the same."

TRUST DEEDS. See *Mortgages*.

DESCENT.—Whenever any person having title to real estate of inheritance shall die intestate as to such estate, it shall descend in parcenary to the male and female kindred as follows: To his children, or their descendants, if any there be. If no children, nor their descendants, then to his father. If no father, then to his mother, brothers, and sisters, and their descendants, or such of them as there be. If no brother, nor sister, nor their descendants, the inheritance shall be divided into moieties, one of which shall go to the paternal, the other to the maternal kindred in the following course, namely, first to the grandfather. If no grandfather, then to the grandmother, uncles, and aunts on the same side, and their descendants, or such of them as there be. If there be no grandmother, uncle, nor aunt, nor their descendants, then to the great-grandfathers, or great-grandfather, if there be but one.

If there be no great-grandfathers, then to the great-grandmothers, or great-grandmother, if there be but one; and the brothers and sisters of the grandfathers and grandmothers, and their descendants, or such of them as there be.

And so in other cases without end, passing to the nearest lineal male ancestors, and, for want of them, to the lineal female ancestors in the same degree, and the descendants of such male and female ancestors, or such of them as there may be. Whenever an infant shall die without issue, having title to any real estate of inheritance derived by gift, devise or descent from the father, and there be living at the death of such infant, his father, or any brother or sister of such infant, on the part of the father, or the paternal grandfather or grandmother of the infant, or any brother or sister of the father, or any descendant of any of them, then such estate shall descend and pass to the paternal kindred without regard to the mother or other maternal kindred of such infant, in the same manner as if there had been no such mother or other maternal kindred living at the

death of the infant, saving, however, to such mother any right of dower which she may have in such real estate of inheritance.

And where an infant shall die without issue, having title to any real estate of inheritance derived by gift, devise, or descent from the mother, and there be living at the death of such infant, his mother, or any brother or sister of such infant, on the part of the mother, or the maternal grandfather, or the grandmother of the infant, or any brother or sister of the mother, or any descendant of any of them, then such estate shall descend and pass to the maternal kindred without regard to the father or other paternal kindred of such infant, in the same manner as if there had been no such father or other paternal kindred living at the death of the infant, saving, however, to such father the right which he may have as tenant by the curtesy in the said estate of inheritance.

And where from want of issue of the intestate, and the father, mother, brothers, and sisters, and their descendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred: If there should be no such kindred on the one part, the whole shall go to the other part, and if there be no kindred either on the one part or the other, the whole shall go to the wife or husband of the intestate; and if the wife or husband be dead, it shall go to her or his kindred, in the like course as if such wife or husband had survived the intestate and then died entitled to the estate. And in the cases before mentioned, when the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood to the intestate, and other part of the half blood only, those of the half blood shall inherit only half as much as those of the whole blood; but if all be of the half blood, they shall have whole portions, only giving to the ascendants (if any there be) double portions. By an act of the legislature, passed November 20, 1828, it is provided that the distribution of personal property, remaining in the hands of the executor or administrator after the payment of all debts and legacies, shall be made according to the provisions of the law regulating descents.

If married women die in this State possessed of real and personal property, or either species of property, the husband takes a child's part; and if there be no children he is entitled to the administration and to all her property both real and personal.

By an act of the legislature, approved February 27, 1872, it is provided, "If a man die in this State intestate, without children, who shall at the time of his death be possessed of real and personal property, or either, the wife shall take the whole estate or dower at her election; and that where the husband dies intestate, without children, the wife shall be sole heir at law." The supreme court in Crolly *vs.* Clark, June term, 1884, decided that under the above act, if the husband dies outside of this State intestate, without children, the widow is the sole heir at law.

Whenever any person shall die in this State leaving insurance on his or her life, the said insurance shall inure exclusively to the benefit of his or her child or children, husband, or wife, in equal portions, or to any other person or persons for whose benefit said insurance is declared in the policy, and the proceeds thereof shall in no case be liable to attachment, garnishment, or any legal process by any creditor or creditors of the person whose life was so insured, unless said policy declares that the said insurance was effected for the benefit of such creditors. (Act of February 17, 1872.)

Dower.—The widow is entitled as dower to a life estate in one-third part in value of the realty of which her husband died seized and possessed, or of which he was seized and possessed at any time during the coverture (and had conveyed), in which she had not relinquished her dower, and to one-third part of the personalty absolutely; and this claim to dower is a preferred one, and superior to that of a creditor. Instead of dower a widow may elect to take a child's part in the estate of her deceased husband, provided she makes her election within twelve months from the probate of the will or granting of letters of administration.

If she takes a child's part in lieu of dower, she takes a fee-simple estate in the realty, and an absolute title to the personalty, but subject to the payment of the debts of the husband.

Exemptions.—Article X. of the constitution of 1885 provides as follows: "Sec. 1. A homestead to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family residing in this State, together with one thousand dollars' worth of personal property, and the improvements on the real estate, shall be exempt from forced sale under process of any court, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes or assessments, or for the payment of obligations contracted for the purchase of said property, or for the erection or repair of improvements on the real estate exempted, or for house, field, or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business house of the owner; and no judgment or decree or execution shall be a lien upon exempted property except as provided in this article. Sec. 2. The exemptions provided for in section one shall inure to the widow and heirs of the party entitled to such exemption, and shall apply to all debts, except as specified in said section. Sec. 3. The exemptions provided for in the constitution of this State adopted in 1868 shall apply as to all debts contracted and judgments rendered since the adoption thereof and prior to the adoption of this constitution. Sec. 4. Nothing in this article shall be construed to prevent the holder of a homestead from alienating his or her homestead so exempted by deed or mortgage duly executed by himself or herself, and by husband and wife, if such relation exists; nor, if the holder be without children, to prevent him or her from disposing of his or her homestead by will, in a manner prescribed by law, Sec. 5. No homestead provided for in section one shall be reduced in area on account of its being subsequently included within the limits of an incorporated city or town without the consent of the owner."

By an act approved February 24, 1873, "When the homestead is not within the corporate limits of any town or city, the person claiming said exemption shall have the right to set apart that portion of land belonging to him which includes his residence, or not, at his option."

The supreme court, in Friedenberg v. Wilson, decided that the head of a family cannot devise his homestead so as to deprive his children of the benefit of the same.

Money due for the personal labor or services of any person who is the head of a family, residing in this State, is exempted from attachment or garnishment. (Acts of 1875, p. 68, ch. 2065.)

MARRIED WOMEN.—The constitution of 1885, article XI., provides that "all property, real and personal, of a wife, owned by her before marriage, or lawfully acquired afterwards by gift, devise, bequest, descent, or purchase, shall be her separate property, and the same shall not be liable for the debts of her husband without her consent given by some instrument in writing executed according to the law respecting conveyances by married women. A married woman's separate, real, or personal property may be charged in equity and sold, or the uses, rents, and profits thereof sequestered for the purchase-money thereof; or for money or thing due upon any agreement made by her in writing for the benefit of her separate property; or for the price of any property purchased by her, or for labor and material used with her knowledge or assent in the construction of buildings, or repairs, or improvements upon her property, or for agricultural or other labor bestowed thereon with her knowledge and consent."

By an act of the legislature approved March 6, 1845, it was provided that "hereafter when any female, a citizen of this State, shall marry, or when any female shall marry a citizen of this State, the female being seized or possessed of real or personal property, her title to the same shall continue separate, independent, and beyond the control of her husband, notwithstanding her coverture, and shall not be taken in execution for his debts; and that she may become seized or possessed of real and personal property during coverture, by bequest, devise, gift, purchase, or distribution, subject to the like restrictions, limitations, and provisions."

The husband and wife must join in all sales, transfers, and conveyances of the property of the wife, and the real estate of the wife shall only be conveyed by the joint deed of the husband and wife, duly attested, authenticated, and admitted to record, according to the laws of Florida regulating conveyances of real property. See *Deeds*.

A married woman, owning real estate of inheritance in this State, may sell, convey, transfer, or mortgage the same, or any part thereof, in the same manner as she might do if she were sole and unmarried, provided the husband of said married woman join in such sale, conveyance, transfer, or mortgage, and the same be made and authenticated in the manner prescribed by the laws in force regulating conveyances of real estate and the recording and authenticating the same; and provided also, that such married woman shall acknowledge, on a separate, private examination, apart from her husband, before the officer or other person appointed by law to take her acknowledgment of her execution of any such sale, conveyance, transfer, or mortgage, that she executed the same freely and without any fear or compulsion of her said husband. Females become of age at twenty-one.

By act of March 11, 1879, a married woman residing in this State may become a free dealer, and manage, take charge of, and control her own estate, and contract and be contracted with, sue and be sued, as if unmarried, by making petition in chancery to the judge of the circuit court, who, upon being satisfied, upon testimony taken before a master, as to the capacity and qualifications of such married woman to take charge of and manage her own estate, and to become a free dealer, may grant her a license for that purpose, in accordance with the prayer of the petition, four weeks' notice of such application being published.

It shall not be lawful for any married woman to take charge of and manage her own estate until the order and decree granting such license shall have been published four weeks in succession in some newspaper in the county or circuit, and if no newspaper be published in the county, then by posting a copy for four weeks at the court-house door and two more public places in the county in which she may reside at the time such order was made, one of said notices to be posted in the neighborhood where applicant resides. (McClellan's Digest, pp. 754-757.) See also *Descent of Property* and *Dower*.

MECHANICS' LIENS.—Mechanics' and all other persons performing labor or furnishing materials or machinery in the construction or repair of any building, mill, etc., have a lien on such building and the land on which it stands.

Persons of any craft performing labor upon and with any machinery, apparatus, fixtures, or any other thing have a lien thereon for ninety days after failure or refusal to pay for such labor. These liens are enforced by attachment. Persons loading or unloading vessels have a lien on the vessels. Persons cutting or rafting logs or timbers have a lien on the same.

Persons performing any labor on or for a railroad have a lien on the railroad and its property, which may be enforced by bill in equity.

MORTGAGES.—All deeds of conveyances, bills of sale, or other instruments of writing conveying or selling property, either real, personal, or mixed, for the purpose or with the intention of securing the payment of money, whether such deed, bill of sale, or other instrument be the same from the debtor to the creditor or from the debtor to some third person in trust for the creditor, shall be deemed and held as mortgages, and must be foreclosed as such.

Mortgages on realty are not usually accompanied by bond to secure judgment for deficiency. This is provided for by Equity Rule 89, as follows: "In suits in equity for the foreclosure of mortgages a decree may be rendered for any balance that may be found due to the plaintiff and above the proceeds of the sale or sales, and execution may issue for the collection of the same."

Mortgages may be discharged by acknowledging satisfaction thereof before the clerk of the circuit court where recorded, and proper entry upon the record, or by a satisfaction piece either indorsed upon the mortgage or separate therefrom, duly proved or acknowledged for record before some officer authorized by the laws of Florida to take acknowledgment of deeds. The wife need not join.

WILLS.—Every person of the age of twenty-one years and upwards, of sound and disposing mind, has the right and power in this State, by last will and testament in writing, to devise and dispose of his or her lands, tenements, and hereditaments, and of his or her estates, right, title, and interest in the same, in possession, remainder, or reversion, at the time of the execution of said last will and testament. Every such will and testament, to be valid, must be signed by the testator, or by some other person in his or her presence, and by his or her express directions; and must be attested and subscribed in the presence of the testator or testatrix, by three or more witnesses.

A married woman may dispose of her property, both real and personal, by last will and testament, in the same manner as if she were not married. (Acts 1881, pp. 66, 67.)

IDAHO:

"*The Gem of the Mountains.*" Prior to 1860, the date of the discovery of gold, the white population consisted almost wholly of trappers, prospectors, and missionaries. Over half a century ago Ft. Boise (wooded) was established by the Hudson Bay Fur Company on the west side of Snake river. With the discovery of gold permanent settlements began, and by the act of March 3, 1863, it was organized into a Territory. Drained by the Snake and Salmon rivers and their tributaries. Shoshone Falls "*the Niagara of the West.*"

Counties, 15.

Area: In square miles, 86,294; in acres, 55,228,160. Altitudes from 2,000 feet to 13,000 feet.

Boise City, "the *Gem of the Rich Country*" and the capital, is an enterprising city, with its national banks, first-class water power, public buildings, schools, etc. Population, 1,899. Silver City and Florence thriving mining towns.

Highest temperature during year 1887, at Boise City, 100.3°: lowest temperature, 6.1°. Average temperature, 50.8°. Rainfall during year, 13.18 inches; average monthly rainfall, 1.10 inches. Temperature rarely falls to zero.

Climate exceptionally fine. Its highly oxygenated atmosphere especially adapted to the cure of catarrh, consumption, and many diseases in which a cure depends on a purification of the blood.

Population (1888) estimated at 105,260.

AGRICULTURAL STATISTICS:

No. of farms (1880): 1,885; total land in farms, 327,798 acres; improved land in farms, 197,407 acres.

Total value of farms, $2,832,890.

Farm products—crop of 1886: *Indian corn:* Product, 42,000 bushels; area in crop, 1,950 acres; average yield per acre, 21.5 bushels; value per bushel, 67 cents; total valuation, $28,140. *Wheat:* Product, 1,039,000 bushels; area in crop, 65,489 acres; average yield per acre, 15.9 bushels; weight per bushel, 58.5 pounds; value per bushel, 72 cents; total valuation, $748,080. *Rye:* Product, 15,000 bushels; area in crop, 1,106 acres; average yield per acre, 13.6 bushels; value per bushel, 60 cents; total valuation, $9,000. *Oats:* Product, 1,078,000 bushels; area in crop, 34,770 acres; average yield per acre, 31 bushels; value per bushel, 55 cents; total valuation, $592,900. *Barley:* Product,

283,000 bushels; area in crop, 12,576 acres; average yield per acre, 22.5 bushels; value per bushel, 48 cents; total valuation, $135,840.

Potatoes: Product, 430,000 bushels; area in crop, 4,095 acres; average yield per acre, 105 bushels; value per bushel, 57 cents; total valuation, $245,100.

Hay: Product, 137,164 tons; area in crop, 112,995 acres; average yield per acre, 1.21 ton; value per ton, $10; total valuation, $1,371,640.

Total area in above crops, 232,981 acres.

Total valuation of crop, $3,130,700.

Wages of farm labor per month by the year: Without board, $30; with board, $26.25. Day wages in harvest: Without board, $2; with board, $1.52. Day wages of ordinary farm labor: Without board, $1.50; with board, $1.15.

Farm animals, January 1, 1888: *Horses:* Number, 102,375; average price, $50; value, $5,118,750. *Mules:* Number, 1,705; average price, $65; value, $110,825. *Milch cows:* Number, 26,458; average price, $26.67; value, $705,635. *Oxen and other cattle:* Number, 424,316; average price, $18.75; value, $7,955,925. *Hogs:* Number, 42,150; average price, $6; value, $252,900.

Sheep: Number, 312,408; average price, $2.05; value, $640,436.

MANUFACTURES (1880):

No. of establishments, 162; capital, $677,215; average No. of hands employed, 388; annual wages paid $136,326; value of materials, $844,874.

Value of products: Flouring and grist mill, $520,986; lumber, sawed, $349,635; all other industries, $400,696.

Total value of products of manufactures, $1,271,317.

Great mineral belt hardly prospected, and mining enterprises in their infancy. Many valuable quartz mines unlocated and unoccupied. Gold, silver, copper, and lead, etc. Gold product in 1888 valued at $2,522,209; silver product at $3,422,657; and lead product at $2,960,270.

Agricultural development rapid and successful. All the cereals profitably cropped. Grain crop, in 1887, 2,374,325 bushels, and hay product, 342,914 tons. Fine orchards of apples, peaches, pears, apricots, nectarines, prunes, grapes, etc.

Large grazing area: estimated at 5,000,000 acres.

Counties of Boise, Alturas, and Idaho richest in gold. County Owyhee in silver. Some of the mines in these and other counties reported as very rich.

Taxable property in 1888, $21,288,392.

Great natural resources practically undeveloped. Immense forests of pine and fir timber. Lumber now manufactured in the Territory only used for home consumption. About 18,000,000 acres of timber and mineral lands. Largest part of mineral lands covered with dense forests of pine, spruce and, fir. Thousands of acres of black or lodge pole pine.

Large area of desert lands, capable of development into rich land by a system of irrigation.

Railroad mileage about 1,000 miles.

Fine school system. School population increasing. Many fine school houses. Financial support needed to sustain the schools at their full capacity. School age, 5–12 years.

Manufactures mainly of lumber and flour, and the smelting of ores.

Territorial and congressional elections Tuesday after first Monday in November; senators, 12—representatives, 24; biennial sessions of the legislature in even-numbered years, meeting second Monday in December; limit of session 60 days; terms of members of the legislature, 2 years.

Legal interest rate, 10 per cent.; by contract, 18 per cent.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Real estate is conveyed by deed, signed by the party, or by his authorized agent, with at least one witness, duly acknowledged. The acknowledgment may be before a notary, justice of the peace, or judge or clerk of a court of record, if proved in Idaho. If in another State or Territory, before a notary having a seal, commissioner of deeds, or judge or clerk of a court of record. If proved in a foreign land, before a judge or a clerk of a court of record, any notary public, a minister, commissioner, or consul of the United States therein.

Husband can convey all the common property of the marriage union, excepting the homestead, without signature of wife. And the husband must join with the wife in all conveyances of the wife's separate property, if he has resided in the Territory within a year next preceding the date of acknowledgment.

TRUST DEEDS.—There are no statutory provisions concerning trust deeds, and they are not generally used in this Territory.

DESCENT OF PROPETY.—If wife dies, the husband, without administration, takes the common property. If husband dies, the wife takes half common property, and the remainder goes to the descendants and heirs of husband.

The disposition of all other estate is as follows: One-half to surviving husband or wife, and one-half to child. But if there is more than one child, then two-thirds go to the children. If there are no children, one-half the estate goes to father and mother equally. If there be no father nor mother, one-half goes to brothers and sisters, and children of deceased brother and sister. If deceased leave no husband nor wife nor child, his father and mother take all the estate; if there be no father nor mother, estate goes to brothers and sisters, and children of deceased brother and sister. If deceased leaves no issue, nor father, mother, brother, or sister, the surviving husband or wife takes the entire estate. And in default of all such heirs, the estate goes to the next of kin, beginning with the nearest ancestor. If there be no survivor, heirs, or kin, as provided aforesaid, estate goes to territorial treasury for the benefit of the public schools.

DOWER.—The wife has no right of dower in the lands of her deceased husband.

EXEMPTIONS.—Homestead, to the value of five thousand dollars to head of family, and to the value of one thousand dollars to any other person. As to personal property the following are exempt from execution: 1. Debtor's chairs, tables, desks, books, to the value of one hundred dollars. 2. Necessary household goods, sewing-machine, three months' provisions, two cows, two hogs. 3. A farmer's utensils to the value of three hundred dollars, and team, harness, cart or wagon, a month's food for team, and seed-grain to be sown within six months. 4. A mechanic's tools to the value of five hundred dollars; notary's seal; instruments of surgeon, dentist, surveyor; library of a judge, lawyer, and minister. 5. The cabin of a miner, not exceeding in value five hundred dollars, and his sluices and windlasses, and a pack-horse of prospector. 6. The team, wagon, or cart, and harness of teamster or laborer; one horse, harness, and vehicle of physician or minister. 7. Earnings of debtor, if necessary for his family, for thirty days prior to levy. 8. Shares of homestead association worth one thousand dollars. 9. Such life insurance as yearly premiums of two hundred and fifty dollars will purchase. 10. Engines and apparatus of a fire company. 11. Arms and accoutrements required by law to be kept. 12. Public buildings. But no article shall be exempt on a judgment recovered for the purchase-price.

A homestead may be declared by husband or wife, by an instrument executed as a deed, setting forth that the property is occupied by them, him, or her (as the case is), being a head of a family, as a home, describing the premises. It must be recorded.

MARRIED WOMEN.—Married women retain the ownership of all property acquired before marriage, and all acquired afterwards by gift, bequest, devise, or descent. Husband has control of wife's property, but no sale of any of it can be made nor lien placed thereon, save by instrument executed by both. The wife shall execute and file with the recorder of the county a complete inventory of her separate property.

A married woman may become a sole trader by a decree of the district court.

Females become of age at eighteen, and males at twenty-one.

MECHANICS' LIENS.—Liens are given for labor or materials furnished and used in the construction, alteration, or repair of any mining claim, building, wharf, bridge, ditch, flume, tunnel, fence, machinery, road, aqueduct to create hydraulic power, or any other structure, or for labor on a mining claim.

Every original contractor, within sixty days after the completion of his contract, and every other person claiming a lien within thirty days after the completion of the building or the repairs on the same, must file with the recorder of the county a claim containing a statment under oath of his demand, name of owner of property, if known, of his employer or person to whom materials were furnished, statement of terms and conditions of contract, and description of property. Suit to foreclose lien must be commenced within ninety days after filing.

MORTGAGES.—Mortgages on real property are liens merely; they must be acknowledged as deeds and duly recorded. They can be foreclosed only by action in a district court. Time for redemption on sale, six months. Mortgages are discharged by satisfaction paper duly executed, or by receipt on margin; but an affidavit that all taxes assessed on the mortgage have been paid must be made before a discharge can be entered.

WILLS.—Wills may be made by any person eighteen years old. Two witnesses are required, who must sign in presence of each other and of the maker of the will, who also signs in the presence of the witnesses. But these formalities are not necessary if the will is nuncupative or olographic.

INDIAN TERRITORY:

So-called. An unorganized Territory formed out of the "Louisiana Purchase" ceded in 1803 to the United States by France. The act of June 30, 1834, sec. 1, declared that all that part of the United States west of the Mississippi river and not within the States of Missouri and Louisiana, or the Territory of Arkansas, and also that part of the United States east of the Mississsippi river, and not within any State to which the Indian title has not been extinguished, shall be taken and deemed to be the INDIAN COUNTRY.

Extends from latitude 33°35′ to 37° north. Unsurveyed.

Original area much reduced by the severance of parts in the formation of States and Territories. Present area: In square miles, 64,222.73; in acres, 41,102,546.

Area west of 98° longitude, 13,740,223; area east of 98° longitude, 27,362,323; total, 41,102,546.

Area of unoccupied land west of longitude 98°, 3,683,605 acres.

Western portion mostly an arid plain.

Rivers and water plentiful in other portions.

A strip of land ceded by Texas between the 100th and 103d meridians improperly regarded as included in the Territory.

Number of Indian tribes occupying reservations 41, the principal of which are what are called "the Five Civilized Tribes or Nations," to wit: the Cherokees, Creeks, Chickasaws, Choctaws, and Seminoles.

Number of agencies, 8.

Total Indian population, 75,798.

Indian population west of 98° longitude, 7,615; Indian population east of 98° longitude, 68,183.

Population of the Five Civilized Tribes, to wit: Cherokees, 23,000; Choctaws, 18,000; Chickasaws, 6,000; Creeks, 14,000; Seminoles, 3,000; total, 64,000; occupying lands in southern and eastern part of the Territory.

Areas of lands held by the Five Civilized Tribes, to wit: Cherokee lands, 5,031,351 acres; Creek lands, 3,040,495 acres; Chickasaw lands, 4,650,935 acres; Choctaw lands, 6,688,000 acres; Seminole lands, 375,000 acres; total, 19,785,781 acres. Unsurpassed for fertility and versatility of productions.

The most valuable of the rich and choice lands already appropriated by the wealthy among the Indians. Baronial estates in cultivation exceeding 1,000 acres. Farm laborers mostly Indians, but frequently the estates are cultivated by white laborers under control of

the Indian proprietors. Washita valley in Chickasaw Nation almost a solid farm, cultivated by white labor with Chickasaw landlords. Farms of 1,000, 4,000, and 8,000 acres. Theoretically under their constitutions and laws, and their treaties, all Indians are entitled equally to ownership in common of the land, but practically these lands are monopolized by the wealthy and powerful. The rich among them are becoming richer and the poor are sinking into a condition of semi-slavery.

Each of the civilized tribes or nations manages its own affairs under a constitution modeled upon that of the United States, and the laws enacted in pursuance of its provisions.

Each has its own system of public schools, complete in appointments and well managed. Teachers generally Indians. Text books in English.

Tahlequah the Cherokee capital; Tishomingo the Chickasaw capital; Tushkahoma the Choctaw capital; Muscogee the Creek capital; Union Agency that of the Seminoles.

Railroads (12 in number) traverse the Territory affording ample transportation of all kinds.

Not open to settlement by whites.

Strictly guarded by the United States and Indians against all intrusion by white men.

No census.

OKLAHOMA:

Signifying "*Red Man's Land.*" Situated in heart of the so-called Indian Territory.

Estimated area: In square miles, 2,933.28; in acres, 1,887,300.

A beautiful tract of prairie and timber country, well watered, and regarded as the garden spot of the Mississippi valley.

Agricultural and timber resources described as unbounded.

Climate delightful.

Bill pending before Congress for its organization as a Territory. The early passage of this or some similar bill for a like purpose, and the opening of these valuable lands to settlement under our land laws, confidently expected.

No Man's Land:

Or Public Land Strip. Estimated area, 3,672,640 acres. A fine and compact body of farm land. Two-thirds of bottom lands of best character. Covered with buffalo grass, and adapted to cattle grazing.

No government or court jurisdiction. Its only occupants a few intruding cattlemen.

Proposed to include it in Oklahoma, a bill for the organization of which as a Territory is now pending before Congress.

IOWA:

The French form of an Indian word signifying the "*Drowsy*" or the "*Sleepy Ones.*" It is also called the "HAWKEYE STATE." Formed out of the so-called "Louisiana Purchase" ceded to the United States in 1803 by France. In 1805 it was included in the Terrritory of Louisiana; in 1812 in that of Missouri; in 1834 in that of Michigan; in 1836 in that of Wisconsin; and by the act of June 12, 1838, it was organized as a Territory under the name of IOWA. Admitted as a State December 28, 1846.

Area: In square miles, 55,045; in acres, 35,288,800.

Area of planted timber, 120,737 acres; area in natural timber, 2,164,287 acres.

Population (1885), 1,753,980.

Des Moines is the metropolis and capital: population, 32,469. Population of Dubuque, 26,330; of Davenport, 23,830; of Burlington, 23,459; Council Bluffs, 21,557.

United States ports of entry: Keokuk, Burlington, and Dubuque.

Counties, 99.

Temperature at Davenport, in winter, 21° to 37°; in summer, 70° to 76°; rainfall, at Muscatine, 43 inches.

AGRICULTURAL STATISTICS:

Number of farms (1884), 185,351.

Average size of farms, 142 acres; area of improved land, 20,189,894 acres; area of land in cultivation, 12,874,865 acres; area of unimproved land, 8,058,853 acres; area in pasture, 5,265,858.

Average value per acre, cleared land, $27.36; woodland, $39.36.

Farm products—crop of 1886: *Indian corn:* Product, 198,847,000 bushels; area in crop, 7,927,019 acres; average yield per acre, 25.1 bushels; value per bushel, 30 cents; total valuation, $59,654,100. *Wheat:* Product, 32,455,000 bushels; area in crop, 2,657,105 acres; average yield per acre, 12.2 bushels; weight per bushel, 57 pounds; value per bushel, 60 cents; total valuation, $19,473,000. *Rye:* Product, 1,700,000 bushels; area in crop, 124,984 acres; average yield per acre, 13.6 bushels; value per bushel, 42 cents; total valuation, $714,000. *Oats:* Product, 78,454,000 bushels; area in crop, 2,298,752 acres; average yield per acre, 34.1 bushels; value per bushel, 23 cents; total valuation, $18,044,420. *Barley:* Product, 5,045,000 bushels; area in crop, 224,219 acres; average yield per acre, 22.5 bushels; value per bushel, 45 cents; total valuation, $2,270,250. *Buckwheat:* Product, 234,000 bushels; area in crop, 24,608 acres; average yield per acre, 9.5 bushels; value per bushel, 62 cents; total valuation, $145,080.

Potatoes: Product, 7,577,000 bushels; area in crop, 140,314 acres; average yield per acre, 54 bushels; value per bushel, 47 cents; total valuation, $3,561,190.

Hay: Product, 4,137,844 tons; area in crop, 3,673,875 acres; average yield per acre, 1.13 ton; value per ton, $5; total valuation, $20,689,220.

Total area in crop of 1886, 17,070,876 acres.

Total value of crop, $124,551,260.

State census of 1885: *Broom corn:* Acreage, 2,628; product, 2,740 tons. *Hops:* Acreage, 269; product, 3,714 pounds.

Sorghum: Area, 25,337 acres; syrup, 1,971,818 gallons; sugar, 73,583 pounds. *Maple syrup,* 6,179 gallons; maple sugar, 19,265 pounds.

Orchard products: Apples, 4,113,591 bushels; pears, 4,132 bushels; peaches, 1,356 bushels; plums, 69,017 bushels; cherries, 153,024 bushels.

Value of orchard products, $1,973,620.

Vineyards: Area, 444 acres; product—grapes, 1,672,719 pounds; wine, 33,717 gallons.

Grapes not in vineyard: Product—grapes, 7,423,677 pounds; wine, 50,523 gallons.

Value of products of vine, $429,297.

Dairy products: Milk sold or sent to factory, 21,971,419 gallons; cream sold or sent to factory, 14,721,732 gallons; butter, 48,326,757 pounds; cheese, 942,099 pounds.

Value of dairy products, $13,797,327.

Chickens: Number, 11,244,051; eggs produced, 30,231,781 dozen. Value of poultry and eggs, $3,951,579.

Apiary: Bees, 148,384 stands; honey, 1,997,931 pounds; wax, 35,064 pounds.

Value of products of hive, $332,828.

Flax: Acreage, 303,078; seed, 2,663,073 bushels; fiber, 119,474 pounds; straw, 94,653 tons.

Farm animals, January 1, 1888: *Horses:* Number, 1,003,022; average price, $73.81; value, $74,032,082. *Mules:* Number, 45,649; average price, $86.23; value, $3,936,540. *Milch cows:* Number, 1,225,432; average price, $23.30; value, $29,251,566. *Oxen and other cattle:* Number, 2,095,253; average price, $20.35; value, $42,633,795. *Hogs:* Number, 4,148,811; average price, $6.74; value, $27,969,624. *Sheep:* Number, 408,478; average price, $2.41; value, $985,249.

Wool clip (1884), 2,289,430 pounds.

Manufactures (1880):

No. of establishments, 6,921; capital, $33,987,886; average number of hands employed, 28,372; annual wages paid, $9,725,962; value of materials, $48,704,311.

Value of products: Agricultural implements, $1,271,872; carriages and wagons, $2,212,197; men's clothing, $1,508,398; flouring and grist mills, 19,089,401; foundry and machine shops, $1,594,349, furniture, $1,293,504; distilled liquors, $288,000; malt liquors, $1,653,851; sawed lumber, $6,185,628; printing and publishing, $1,399,289; saddlery and harness, $2,068,486; sash, doors, and blinds, $1,286,072; slaughtering and meat packing, $11,285,032; tinware, copperware, and sheet-iron ware, $1,198,804; tobacco, cigars, etc., $830,097; woolen goods, $679,904, etc.

Total value of products, $71,045,926.

Coal output in 1885, 3,585,737 tons.

Railroads, June 30, 1887: Mileage, 3,496.77; total track, 3,834 miles; locomotives, 255; total revenue cars, 7,866.

Total number of men employed in 1884 by the railroads, 24,190.

Assessed valuation of property, $489,660,081.

School Statistics (1886):

Whole No. of schools, graded and ungraded, 14,829; average duration in months, 7.3; No. of teachers, males, 5,927—females, 18,948; total, 24,675. Average monthly compensation of teachers: males, $38.42—of females, $29.10.

School population between the ages of 5 and 21—pupils enrolled in public schools, 638,156; average cost of tuition per month $2.18; total average attendance, 284,567.

School houses—number, 12,444; value, $11,360,472. Value of apparatus, $259,375. No. of volumes in library, 46,527.

Private colleges, 24; universities, 7; schools, 175; seminaries, 9; total, 215. Pupils, 21,856.

State elections annual on Tuesday after second Monday in October, excepting years of presidential elections, when presidential, congressional, and State elections occur together; State senators, 50; representatives, 100; sessions of legislature biennial in even-numbered years, meeting second Monday in January; no limit of sessions; terms of senators, 4 years—of representatives, 2 years.

Electoral college, 13.

Legal interest rate, 6 per cent; by contract, 10 per cent; usury forfeits 10 per cent. on amount.

Prohibition adopted by State.

State Laws in Relation to Deeds, Dower, Descent and Distribution of Property, Married Women, Mechanics' Liens, Mortgages, and Wills.

Deeds.—Deeds must be in writing and subscribed by the grantor. No particular forms are prescribed, and as between the parties conveyances are valid without being acknowledged or recorded. Deeds, when properly acknowledged, may be recorded in the office of the county recorder at any time; but no instrument affecting real estate is of any validity against subsequent purchasers for a valuable consideration without notice unless recorded in the office of the recorder of deeds of the county in which the land lies. It shall not be deemed lawfully recorded unless it has been previously acknowledged or proved as provided by law.

Deeds *within the State* must be ackowledged before some court having a seal, or some judge or clerk thereof, or some justice of the peace or notary public, or a county auditor or his deputy, or any deputy clerk of court.

Instruments affecting real estate, executed out of this State, but *within the United States*, must be acknowledged before some court of record, or officer holding the seal thereof, or before some commissioner of deeds appointed by the governor of this State, or before some notary public or justice of the peace; and when before a justice, a certificate under the official seal of the proper authority, of the official character of said justice and of his authority to take such acknowledgments, and of the genuineness of his signature, shall accompany said certificate of acknowledgment.

In every conveyance of real estate the joining of the wife with her husband is deemed sufficient to pass all her interest in the property, either as his wife or in her own right. Also see *Dower*.

Witnesses to deeds are not required.

Conveyance by corporations may be executed by any officer thereof, qualified thereto by charter or laws of the corporation, by giving his title as such officer, certifying that he is duly authorized to act, and by attaching the seal of the corporation.

Seals are not required. The wife is not required to be examined separate and apart from her husband, but she must join in conveyance to bar dower. Her signature can be proven. A married woman may convey her interest in real estate in the same manner as other persons.

Trust Deeds—Of real or personal property may be executed as securities for the performance of contracts, and shall be considered as and foreclosed like mortgages; no deed of trust, or mortgage of real estate, with or without power of sale, made since April 1, 1861, shall be foreclosed in any other manner than by action in court by equitable proceedings.

Descent and Distribution of Property.—Subjects to rights of dower and other charges thereon, the estate of an intestate shall descend in equal shares to his children. The heirs of any deceased child shall inherit his share in same manner as though such child had outlived his parent. If the intestate leaves no issue, one-half his estate shall go to his parents, the other to his wife; if he leaves no wife, the whole thereof shall go to his parents, or the survivor of them. If both parents be dead, the portion which would have fallen to their share, or either of them, shall be disposed of in the same manner as if they had outlived the intestate and died in possession thereof, and so on, through ascending ancestors and their issue. If still there be property uninherited it shall escheat to the State.

The personal property of a decedent not necessary for the payment of debts, nor otherwise disposed of, shall be distributed to the same persons, and in the same proportions, as though it were real estate.

Dower—Is abolished, but if the wife survive her husband she has one-third in value of all the legal and equitable estates in real property possessed by the husband at any time during the marriage, which have not been sold on execution or any other judicial sale, and to which the wife has made no relinquishment of her right. (Code. 1873, § 2140.) The same provisions are applicable to the husband of a deceased wife. Each is entitled to the same right in the estate of the other. The estate by curtesy is abolished.

Exemptions.—To an unmarried person not the head of a family and to non-residents there is exempt from execution their own ordinary wearing apparel and trunks necessary to contain the same. If the debtor is a resident of this State, and is the head of a family, he may hold exempt from execution the following property: wearing apparel of himself and family, kept for actual use and suitable to their condition, and the trunks to contain the same; one musket or rifle, and shot-gun; all private libraries, family bible, portraits, pictures, musical instruments and paintings, not kept for sale; a pew in church; a lot in burying ground, not to exceed one acre; two cows and calf; one horse, unless a horse is exempt as hereinafter provided; fifty sheep and the wool therefrom, and the materials manufactured from such wool; six stands of bees; five hogs, and all pigs under six months; the necessary food for all animals exempt from execution for six months; all flax raised by the defendant on not exceeding one acre of ground and the manufactures therefrom; one bedstead and the necessary bedding for every two in the family; all cloth manufactured by the defendant not exceeding one hundred yards; household and kitchen furniture not exceeding two hundred dollars in value; all spin-

ning wheels and looms, one sewing machine, and other instruments of domestic labor kept for actual use; the necessary provisions and fuel for the use of the family for six months; the proper tools, instruments, or books of the debtor, if a farmer, mechanic, surveyor, clergyman, lawyer, physician, teacher, or professor; the horse, or team consisting of not more than two horses or mules, or two yoke of cattle and the wagon with the proper harness or tackle, by the use of which the debtor, if a physician, public officer, farmer, teamster, or other laborer, habitually earns his living; and to the debtor, if a printer, there is also exempt a printing press and the types, furniture, and material necessary for the use of such printing press and a newspaper office connected therewith, not to exceed in value twelve hundred dollars. But if the debtor, being the head of a family, has started to leave the State, he will have exempt only the ordinary wearing apparel of himself and family, and seventy-five dollars' worth of property in addition, to be selected by himself. But no exemptions shall extend to property against an execution issued for the purchase money thereof. The earnings of a debtor for his personal services at any time within ninety days next preceding the levy are also exempt. If a debtor is a seamstress, one sewing machine shall be exempt from execution and attachment.

The homestead of every head of a family is exempt from judicial sale. It may be sold on execution for debts contracted prior to the purchase of such homestead; or for those created by written contract, expressly stipulating that it is liable therefor. If within a town plat, it must not exceed one-half acre in extent, and if without it must not embrace in the aggregate more than forty acres; and in each case embraces all the buildings and improvements thereon without limitation as to value. Upon the death of either husband or wife the survivor may continue to possess and occupy the whole homestead. If there is no survivor and no will the homestead descends to the issue of either husband or wife, and is to be held exempt from any antecedent debts of their parents or their own.

Money received as a pension from the United States is exempt, whether pensioner is a head of a family or not, and a homestead purchased with such pension money is exempt from all debts whether contracted prior or subsequent to such purchase. (Ch. 23, 20th G. A.)

MARRIED WOMEN.—A married woman may own, in her own right, real and personal property acquired by descent, gift, or purchase, and manage, sell, convey, and devise the same by will to the same extent and in the same manner that the husband can property belonging to him; and she may receive the wages of her personal labor and maintain an action therefor in her own name and hold the same in her own right. Neither husband nor wife is liable for the debts or liabilities of the other incurred before marriage; and they are not liable for the separate debts of the other; nor are the wages, earnings, or property of either, nor is the rent or income of such property liable for the separate debts of the other. Contracts may be made by a wife and liabilities incurred, and the same enforced by or against her, to the same extent and in the same manner as if she were unmarried. A married woman may in all cases sue and be sued, without joining her husband with her, except in cases where the cause of action exists in favor of or against both.

The expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

A married woman can make contracts in her own name, buy goods, give notes in settlement of purchase, etc., binding her own separate property, real and personal. Separate property left to her by will, before or after marriage, is not bound for her husband's debts without act of hers.

The period of minority extends, in males, to the age of twenty-one years, and in females to that of eighteen years; but all minors attain their majority by marriage. A marriage between a male person of sixteen and a female of fourteen years of age is valid.

MECHANICS' LIENS.—Persons doing work or furnishing materials on any building or improvement have a lien on the buildings and land. There must be filed in the clerk's office of the district court of the county, within ninety days after the work is done or materials furnished by principal contractors, or within thirty days by sub-contractors, a statement under oath of the demand due, the time when labor was performed or materials furnished, and description of property charged. Statement filed later is good except against subsequent purchasers in good faith and without notice before lien filed.

MORTGAGES.—Mortgages must be subscribed by the parties, and should be acknowledged and recorded in the same manner as deeds. In the absence of stipulations to the contrary the mortgagor of real estate retains the legal title and rights of possession. In a mortgage given for purchase-money it is not necessary for the wife to join. The holder of any mortgage of real property must proceed by civil action when he wishes to foreclose the same. A mortgagor of real estate sold under execution on foreclosure has one year within which to redeem.

The statutes provide that "whenever the amount due on any mortgage is paid off the mortgagee, or those legally acting for him, must acknowledge satisfaction thereof in the margin of the record of the mortgage," or it may be done by a satisfaction piece duly acknowledged and recorded. In case of foreclosure it is made the duty of the clerk of courts to enter satisfaction of the same. If satisfaction is not entered within sixty days after being requested the mortgagee shall forfeit to the mortgagor the sum of twenty-five dollars.

WILLS.—Any person of full age and sound mind may dispose by will of all his property, except what is sufficient to pay his debts or what is allowed as a homestead, or otherwise given by law, as privileged property, to his wife or family. Property, to be subsequently acquired, may also be devised, when the intention is clear and explicit. Personal property to the value of three hundred dollars may be bequeathed by a verbal will, if witnessed by two competent witnesses. A soldier in actual service, or a mariner

at sea, may dispose of all his personal estate by a will so made and witnessed; all other wills to be valid must be in writing, witnessed by two competent witnesses, and signed by the testator, or by some person in his presence and by his express direction. No subscribing witness to a will can derive any benefit therefrom unless there be two disinterested and competent witnesses to the same.

Wills that are valid where made are valid in this State. If probated in any other State or country, they shall be admitted to probate in this State on the production of a copy of such will and of the original record of probate thereof, authenticated by the attestation of the clerk of the court in which such probation was made; or, if there be no clerk, by the attestation of the judge thereof, and by the seal of office of such officers, if they have a seal.

Wills, foreign or domestic, must be probated before they can be carried into effect.

Wills are recorded in a book kept for that purpose in the office of the clerk of the district court.

KANSAS:

An Indian word signifying "*Smoky Waters*," as also "*Good Potato.*" The State is also called "THE GARDEN OF THE WEST." Visited in 1541 by the Spaniards, and in 1719 by the French. Embraced in the so-called "Louisiana Purchase" from France in 1803, and for some time included in the Indian Territory. Organized into a Territory by the act of May 30, 1854, and subsequently, for several years, the theatre of a violent and bloody political struggle, practically of a sanguinary civil war, between the anti and pro-slavery parties of the Union, for possession of its government and lands. Admitted as a State January 29, 1861.

Area: In square miles, 80,891; in acres, 51,776,240. Frontage on Mississippi river, 150 miles. Solomon, Neosho, Salina, Republican, Kansas, and Arkansas its principal rivers.

Counties, 106.

Temperature at Leavenworth, in summer, 74° to 79°; in winter, 25° to 35°. Rainfall, 31 inches.

Topeka the capital: population 23,499. Leavenworth the metropolis: population, 29,268.

Population of State in 1880, 996,096.

AGRICULTURAL STATISTICS:

No. of farms (1880), 138,561; total land in farms, 21,417,468 acres; improved land in farms, 10,739,566 acres.

Total value of farms in 1880, $235,178,936.

Value of farming implements, $15,652,848.

Farm products—crop of 1886: *Indian corn*: Product, 126,712,000 bushels; area in crop, 5,812,615 acres; average yield per acre, 21.8 bushels; value per bushel, 27 cents; total valuation, $34,212,240. *Wheat:* Product, 14,556,000 bushels; area in crop, 1,272,300 acres; average yield per acre, 11.4 bushels; weight per bushel, 57 pounds; value per bushel, 58 cents; total valuation, $8,442,480. *Rye:* Product, 2,128,000 bushels; area in crop, 185,000 acres; average yield per acre, 11.5 bushels; value per bushel, 41 cents; total valuation $872,480. *Oats:* Product, 25,516,000 bushels; area in crop, 964,930 acres; average yield per acre, 26.4 bushels; total valuation, $6,379,000. *Barley:* Product, 734,000 bushels; area in crop, 34,472 acres; average yield per acre, 21.3 bushels; value per bushel, 36 cents; total valuation, $264,240. *Buckwheat:* Product, 20,000 bushels; area in crop, 2,040 acres; average yield per acre, 9.8 bushels; value per bushel, 80 cents; total valuation $16,000.

Potatoes: Product, 5,744,000 bushels; area in crop, 99,031 acres; average yield per acre, 58 bushels; value per bushel, 65 cents; total valuation, $3,733,000.

Hay: Product, 1,848,000 tons; area in crop, 1,320,000 acres; average yield per acre, 1.40 ton; value per ton, $4.40; total valuation, $8,131,200.

Total area in crop of 1886, 9,690,388 acres.

Total value of crop, $62,051,240.

Wages of farm labor per month by the year: Without board, $24.25; with board, $16.05. Day wages in harvest: Without board, $1.60; with board, $1.25. Day wages of ordinary farm labor: Without board, $1.12; with board, 85 cents.

Other farm products (crop of 1887): *Sorghum* (value), $1,794,555. *Castor beans:* Product, 405,488 bushels; area in crop, 43,342 acres; value, $364,939.20. *Flax:* Product, 1,400,741 bushels; area in crop, 142,577 acres; value, $1,190,629.85. *Hemp:* Product, 228,900 pounds; area in crop, 327 acres; value, $11.415. *Broom Corn:* Product, 42,066,600 pounds; area in crop, 70,111 acres; value $1,472,331.

Tobacco: Product, 444,000 pounds; area in crop, 740 acres; value, $44,400.

Cotton: Product, 409,750 pounds; area in crop, 1,639 acres; value, $32,780.

Dairy products: Milk other than that sold to cheese factories and creameries, $477,381. Butter: Product, 27,610,010 pounds; value, $4,323,403.84. Cheese: Product, 496,604 pounds; value, $59,592.48.

Value of poultry and eggs sold, $1,757,508.

Orchard products abundant: Apples, pears, peaches, plums, and cherries.

Area of nurseries, 25,299 acres.

Value of horticultural products marketed, $721,577.

Value of garden products marketed, $923,933.

Raspberries, strawberries, and blackberries in great profusion.

Vineyards: Area in vines, 6,883 acres; wine made, 189,825 gallons; value of wine, $189,825.

Apiaculture: Stands of bees, 31,615; honey produced, 257,780 pounds; wax produced, 7,272 pounds; value of honey and wax, $53,374.

Farm animals, January 1, 1888: *Horses:* Number, 634,893; average price, $67.34; value, $42,754,975. *Mules:* Number, 86,104; average price, $83.32; value, $7,173,954. *Milch cows:* Number, 640,081; average price, $22.41; value, $14,344,215. *Oxen and other cattle:* Number, 1,583,915; average price, $20.37; value, $32,271,946. *Sheep:* Number, 830,139; average price, $1.76; value, $1,457,558. *Hogs:* Number, 2,377,561; average price, $5.66; value, $13,457,469.

Adapted for stock raising.

Wool clip of 1886: Product, 2,664,319 pounds; value, $479,577.42.

MANUFACTURES (1880):

No. of establishments, 2,803; capital, $11,192,315; average number hands employed, 12,062; total wages paid during year, $3,995,010; value of materials, $21,453,141.

Embracing products of flouring and grist mills, valued at $11,858,022; slaughtering and meat packing, valued at $5,618,714; also sawed lumber, carriages, and wagons, iron and steel, foundry and machine shops, furniture, etc.

Total value of products, $30,843,777.

MINE STATISTICS (1880):

Bituminous coal: Product s 763,597 tons; value, $1,498,168. *Lead:* Product, 10,681 tons; value, $460,980. *Zinc* ore: Product, 7,248 tons; value, $477,693.

Total valuation of all non-precious metal products, $2,436,841.

Products of quarries (1880): Marble and limestone: Number of quarries, 17; capital invested, $59,700; product, 1,340,346 cubic feet; value, $131,570.

Sandstone: Number of quarries, 2; capital, $14,000; product, 66,000 cubic feet; value, $11,000.

State asylums at Topeka and Ossawatomie for insane and feeble minded; institution at Wyandotte for education of the blind; at Olathe for deaf-mutes.

Total assessed valuation in 1880 of real estate and personal property, $160,891,689.

Railroads, June 30, 1887: Mileage, 8,404.33; total track, 9,741.17 miles; locomotives, 143; total revenue cars, 3,904.

Presidential, congressional, and State elections Tuesday after first Monday in November; senators, 40—representatives, 125; sessions biennial in odd numbered years, meeting second Tuesday in January; limit of session 50 days; term of senators, 4 years—of representatives, 2 years.

Electoral college, 9.

Fine system of public schools. Over 5,000 school houses. School age, 5–21. Attendance 69 per cent. of school population.

Colleges 8. State University at Lawrence.

Legal interest, 7 per cent.; by contract, 12 per cent.; usury forfeits excess of interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANIC'S LIENS, MORTGAGES, AND WILLS.

DEEDS.—No particular forms of conveyances or mortgages are prescribed; but the following are provided for:

Any conveyance in substance, A. B. conveys and warrants to C. D. (insert description), for the sum of (insert consideration), properly dated, signed, and acknowledged, passes fee to grantee, his heirs and assigns, and implies covenants from grantor, heirs, and representatives, of lawful seizure, right to convey, against incumbrances, quiet possession, and warranty.

A conveyance in substance, A. B. quitclaims to C. D. (insert description), for the sum of (insert consideration), signed and acknowledged, is a conveyance in quitclaim to grantee, heirs and assigns.

A mortgage in substance, A. B. mortgages and warrants to C. D. (description) to secure the payment of (describe indebtedness or its evidence, and give date of payment), dated, signed, and acknowledged, is a good mortgage to the grantee, his heirs, assigns, executors, and administrators, with warranty from grantor and legal representatives of perfect title and against incumbrances; and if the words "and warrants" be omitted from above form, the mortgage is good without warranty. (Laws, 1887, ch. 151.)

As between the parties, conveyances are valid without being recorded. The wife should join with her husband in the conveyance; but this is not necessary if at the time of the making of the deed she has never been a resident of the State. Powers of attorney to convey land (as well as deeds) must be acknowledged and recorded. If within the State, the acknowledgment must be before some judge or clerk of a court having a seal, justice, notary public, county clerk, register of deeds, or mayor or clerk of an incorporated city. If out of the State, before some court of record, or clerk or officer holding the seal thereof, some commissioner of deeds for this State, notary public, justice of the peace, or any United States consul resident abroad. If before a foreign justice of the peace, his official character must be certified by the clerk of some court of record. Unacknowledged deeds may be proved before any officer authorized to take acknowledgments. The wife need not be "examined apart from her husband," or "relinquish her dower." Neither seals, scrolls, nor wafers are required in the execution of a deed by a private person. Corporations must execute conveyances under the corporate seal. The husband must join in conveyance of wife's property. Any corporation may convey lands by deed, sealed with the common seal of the corporation, and signed by the president, or the presiding member or trustee of said corporation; and such deed, when acknowledged by such officer to be the act of such corporation, or proved in the manner prescribed for other conveyances of lands, may be recorded in like manner and with the same effect as other deeds. (§ 1088.)

DESCENT AND DISTRIBUTION OF PROPERTY.—The homestead is the absolute property of the widow and children, one-half in value to the widow and the other half to the children, where both survive. If there are no children, the widow is entitled to the homestead; if children are left and no widow, the children take it. To constitute a homestead, the land must be occupied by the family. If the deceased left a widow and children, the homestead cannot be divided until the youngest child arrives at the age of majority, unless the widow again marry. One-half of all the real estate in which the husband, at any time during the marriage, had a legal or equitable interest, which has not been sold on execution or other judicial sale, and not necessary for the payment of debts, and of which the wife has made no conveyance, goes to the widow; except of land conveyed by husband whose wife never resided in the State; and this interest is in fee simple. In other words, the widow is an heir. Personal property, exempt from execution, goes to the widow and children, being treated in the same way as the homestead. The other half of real estate owned by deceased at the time of his death descends in equal shares to the children; or, if no children, or descendants of children, to the widow. The personal property not necessary for the payment of debts, or disposed of according to law, is distributed to the same persons and in the same proportions as if it were real

estate. For want of wife or child, the whole estate goes to the parents, or surviving parent. If both parents are dead, the estate is disposed of as if they, or either of them, had outlived the deceased and died in ownership and possession.

Any child being dead, the heirs of such child inherit as if such child had outlived its parent. The rules applicable to the widow of a deceased husband apply equally to the husband of a deceased wife, except that a general and beneficial power may be given to a married woman to dispose of or devise, without the concurrence of her husband, lands conveyed or devised to her in fee. (§ 6512.) Any married person having no children may devise one-half of his or her property to other persons than the husband or wife.

Illegitimate children inherit from the mother and she from them. They inherit from the father when his recognition of them has been general and notorious or in writing, and he from them if such recognition has been mutual. When an illegitimate child would inherit from either parent, such parent will inherit from the child. Neither husband nor wife can bequeath away from the other more than one-half of his or her property, unless consent in writing is given thereto; and the survivor, by relinquishing all rights under a will, will inherit as if no will existed.

DOWER.—The estate of dower is abandoned.

EXEMPTIONS.—The constitution provides that "a homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempted from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon;" but this does not apply where a lien is given by consent of husband and wife. (§ 9, art. 15, Const. of Kansas.) By statute, each resident, being the head of a family, is entitled to have exempt from seizure and sale, upon any judicial process, the family books and musical instruments, a seat or a pew in church and lot in burial-ground, all wearing apparel, bedsteads, bedding, stoves, and cooking utensils used by the family, one sewing-machine, all implements of industry, five hundred dollars' worth of other household furniture, two cows, ten hogs, one yoke of oxen, and one horse or mule (or, in lieu of one yoke of oxen and one horse or mule a span of horses or mules); twenty sheep and the wool from the same; the necessary food for the stock above described for one year, either provided or growing; one wagon, cart, or dray; two plows, one drag and other farming utensils, including harness and tackle for teams, not exceeding in value three hundred dollars; provisions and fuel for the support of the family, for one year; the necessary tools and implements of any mechanic, miner, or other person, used and kept for the purpose of carrying on his trade or business, and, in addition thereto, stock in trade not exceeding four hundred dollars in value, and the library, implements, and office furniture of any professional man. (§ 2657.)

A resident, not being the head of a family, has exempt his wearing apparel, church pew, burial lot, necessary tools and implements used in his trade or business, stock in trade not exceeding four hundred dollars; and, if a professional man, his library, implements, and office furniture. (§ 2658.) And the earnings of a debtor for personal services for three months, when such earnings are necessary for the maintenance of a family supported wholly or partly by his labor. (§§ 4719, 4303; Laws, 1886, ch. 111.)

MARRIED WOMEN.—The property, real and personal, which any woman in this State may own at the time of her marriage, and the rents, issue, profits, or proceeds thereof, and any real, personal, or mixed property which shall come to her by descent, devise, or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts. (§ 3347.)

A married woman, while the marriage relation subsists, may bargain, sell, and convey her real and personal property, and enter into any contract with reference to the same, in the same manner, to the same extent, and with like effect as a married man in relation to his real and personal property. (§ 3348.)

MECHANICS' LIENS.—Mechanics, artisans, and tradesmen have a lien on all articles constructed and repaired by them, and if the same be completed and not taken away, and the fair charges on the same not paid, the property may be sold at any time after three months. Any mechanic or other person who shall furnish, under contract, any labor or materials for erecting, altering, or repairing any building or appurtenance, or any machinery or fixtures in the same, or plant or grow any trees, vines, hedges, etc., or shall build a stone or other fence, shall have a lien on the buildings, lands and appurtenances. Sub-contractors must file a statement of their account with the clerk of the district court for the county within sixty days after the completion of the buildings, etc., or the furnishing the labor or materials. Contractors must file such an account within four months, and all actions to enforce liens must be begun within one year after completion of the work.

MORTGAGES.—A mortgage of real estate, to be valid as against subsequent *bona fide* purchasers, must be duly acknowledged and recorded in the office of the register of deeds of the county where the land is situated, in the same manner that other real estate conveyances are. In the absence of stipulations to the contrary, the mortgagor of real property retains possession until the mortgage is duly foreclosed and sheriff's deed delivered to the purchaser. Mortgages may be discharged on margin of record by mortgagee or attorney or assignee in presence of register, or by satisfaction entered on the instrument when copied on the margin by the register; or by an independent release duly acknowledged and recorded. There is no redemption of land sold under execution or other legal process in this State. (Dass. Comp. Laws, ch. 68.)

WILLS.—Any person of full age and sound mind and memory, having an interest in real or personal property of any description whatever, may give and devise the same to

any person by last will and testament lawfully executed, subject, nevertheless, to the rights of creditors and to the provisions of this act. (§ 6569.) Wills must be in writing, signed at the *end* by the testator, or another in his presence and by his express direction, and subscribed in his presence by two or more competent witnesses who saw him subscribe or heard him acknowledge it. (§ 6570.) Compliance with these requirements should appear in the witnessing clause. A will executed, proved, and allowed in another State, according to the laws of that State, relative to property in this State, may be admitted to record in the probate court of the county in which such property is situated by producing an authenticated copy, and thereupon has the same validity as if made in this State. (§ 6592.)

Every will, when admitted to probate, shall be filed in the office of the probate court, and recorded, together with the testimony, in a book to be kept for that purpose. (§ 6584.)

Any person may make a will in writing, and inclose the same in a sealed wrapper, with the name of the testator indorsed thereon, and deposit the will so inclosed and indorsed in the office of the judge of the probate court in the county in which such testator lives, subject to the order of the testator only during his life, and after his death to be delivered to the party named on the back of the package as the party to whom it is to be delivered; and if no such party is named, then to be publicly opened in the probate court within two months after notice of the death of the testator. (§§ 6572–6574.)

LOUISIANA:

Also called "THE CREOLE STATE." Formed out of territory settled in 1718, by the French; ceded in 1762 by France to Spain; retroceded in 1800 to France under Bonaparte, and by him in 1803 ceded to the United States. Upon its original settlement by the French it was named Louisiana in honor of King Louis XIV of France, and the cession to the United States of the territory of which it formed part is known as the "Louisiana Purchase." Organized in 1804 as the Territory of Orleans, it was by the act of January 12, 1812, admitted as a State under the name of LOUISIANA.

Area: In square miles, 44,426; in acres, 28,432,640.

Counties, 58.

Nearly equally divided into hilly and level lands. Good upland, about 5,250,000 acres. Pine hills, 5,500,000 acres. Bluff lands, 1,500,000 acres. Prairie land, 2,500,000 acres. Arable alluvial, 3,500,000 acres. Wooded alluvial, 2,750,000 acres. Pine flats, 1,500,000 acres. Coast marsh, 3,500,000 acres.

Soil rich; land cheap and prolific.

Improved land valued at from $2 to $50 per acre; unimproved land at from 25 cents to $10 per acre.

All swamp lands (about 6,000,000 acres) owned by the State.

Forests consist of pecan, cyprus, oak, pine, hickory, gum, ash, and other timber.

Baton Rouge the capital or seat of State government: population, 7,197. New Orleans the commercial metropolis, and until 1847, and from 1868 to 1881, the capital; a port of entry, and the largest cotton mart in the world: population in 1884, 280,000. Shreveport: population, 8,009. Morgan City, a port of entry. Public institution at Jackson for the treatment of the insane.

Population, 940,103.

Large and prosperous German settlement at Fabacher, in St. Landry parish.

Temperature at New Orleans, in winter, 53° to 61°; in summer, 81° to 83°. Rainfall, 51 inches.

Climate never too hot or too cold for field work. Frosts rare. Singularly free from protracted drouths. Prairies breezy and cool in summer, mild in winter, and dry at all times.

Mississippi river winds through State for a distance of 800 miles, and is navigable for 2,000 miles to St. Anthony Falls. Mississippi and tributaries estimated as navigable to steamboats for 16,571 miles, and to barges for 20,221 miles.

Total mileage of navigable streams intersecting State in every direction, 3,771 miles.

Vast water power. Finest mill sites in the world: Streams never freeze. Streams bordered with fields of excellent cotton, which is shipped to New Orleans.

AGRICULTURAL STATISTICS:

No. of farms (1880), 48,292; total land in farms, 8,273,506 acres; improved land in farms, 2,739,972 acres.

Total value of farms, $58,989,117.

Farm products—crop of 1886: *Indian corn:* Product, 14,640,000 bushels; area in crop, 935,725 acres; average yield per acre, 15.6 bushels; value per bushel, 55 cents; total valuation, $8,052,000. *Rye:* Product, 10,000 bushels; area in crop, 1,285 acres; average yield per acre, 7.8 bushels; value per bushel, 95 cents; total valuation, $9,500. *Oats:* Product, 361,000 bushels; area in crop, 36,138 acres; average yield per acre, 10 bushels; value per bushel, 52 cents; total valuation, $187,720.

Potatoes: Product, 471,000 bushels; area in crop, 6,728 acres; average yield per acre, 70 bushels; value per bushel, 92 cents; total valuation, $433,320.

Hay: Product, 42,882 tons; area in crop, 40,933 acres; average yield per acre, 1.05 ton; value per ton, $11.50; total valuation, $433,143.

Cotton: Product, 471,974 bales; area in crop, 1,035,781 acres; average yield per acre, .456 bale; value per pound, 8 cents 3 mills; total valuation, $18,999,331.

Total area in crop, 2,056,590 acres.

Total valuation of crop, $28,175,014.

Wages of farm labor per month by the year: Without board, $15.37; with board, $11.12. Day wages in harvest: Without board, 92 cents; with board, 72 cents. Day wages of ordinary farm labor: Without board, 85 cents; with board, 65 cents.

Total wages of day laborer for one year on sugar plantation, $378.10.

Total wages of day laborer for one year on rice plantation, $265.60.

Cereals, root crops, fruits, and vegetables mature with less labor than in North or West, or in England. Wheat crop light and confined to northwestern part of State.

Orchard products valued at $188,604.

The orange, citron, lemon, mespilus, apple, plum, grape, strawberry and numerous other fruits and berries in all parts of State, a number of them growing wild and without cultivation.

Vegetables grown every month in year.

Tobacco product, 55,954 pounds.

Two crops a year grown on same ground of corn, sorghum, rice, and jute.

No failures of crops from any cause.

St. Louis, Chicago, Cincinnati, and New York markets for garden products. Early garden products bring fabulous prices.

Vegetables and grasses, food for man and beast, fresh or green all the year.

Farm animals, January 1, 1888: *Horses:* Number, 119,810; average price, $57.15; value, $6,847,597. *Mules:* Number, 84,478; average price, $88.46; value, $7,472,811. *Milch cows:* Number, 162,649; average price, $16.30; value, $2,651,179. *Oxen and other cattle:* Number, 270,816; average price, 11.33; value, $3,069,187. *Hogs:* Number, 573,821; average price, $3.08; value, $1,769,663. *Sheep:* Number, 113,965; average price, $1.64; value, $186,891.

Prairie products: Beef cattle, horses, and sheep. Soil good. Cattle and horses require no shelter, but keep fat all winter. Area of prairie land in cultivation, 2,509,935 acres.

Grasses: Lucerne enormously productive, extremely nutritious, and relished by horses, cattle and sheep. Yield, 5 tons of hay per acre. One acre in lucerne supports 5 horses a whole year. Johnson, Bermuda, and other grasses grow abundantly throughout the State.

Game and fish in great abundance.

MANUFACTURES (1880):

No. of establishments, 1,553. Capital invested, $11,462,468. Average number of hands employed, 12,167. Annual wages paid, $4,360,371. Value of materials, $14,442,506.

Value of products: Oil cottonseed and cake, $3,739,466; lumber, sawed, $1,764,640; lumber, planed, $270,480; rice cleaning and polishing, $1,573,281; slaughtering and meat packing, $1,500,000; foundry and machine shop, $1,554,485; sugar and molasses, refined, $1,483,000; men's clothing, $1,079,559; bread and other bakery products, $983,960; cotton compressing, $747,500; printing and publishing, $764,036; tobacco, cigars, and cigarettes, $506,612; tobacco, chewing and smoking, and snuff, $424,085; malt liquors, $458,459, etc.

Total value of products of manufactures, $24,205,183.

New Orleans making steady progress in manufactures: cotton mills, breweries, sugar refineries, iron foundries and machine shops, shoe factories, box factories, cigars and tobacco, flouring mills, leather and harness, etc.

MINERALS: Petroleum, peat, sulphur, iron, soda, gypsum, lime, ochre, marl, etc., found in State. Only rock salt has been developed. Iron ore of good quality scattered in immense quantities over an extensive surface. Bienville parish singularly rich in iron ore. Lime and inexhaustible forests accompany the beds of iron ore.

Salt product, 312,000 bushels.

Railroads June 30, 1887: Mileage, 1,754; total track, 1,926.42 miles; locomotives, 143; total revenue cars, 3,904.

Ocean and Gulf communication by steamship lines with Mexico, South and Central America and with all parts of the world.

Public schools, both white and colored.

Electoral college, 8.

Legislature and State officers elected quadrennially; members of Congress biennially. State elections Tuesday after third Monday in April; senators, 36—representatives, 98; sessions biennial in even numbered years, meeting second Monday in May; limit of session, 60 days; terms of senators and representatives, 4 years each.

Legal interest rate, 5 per cent.; by contract, 8 per cent.; usury forfeits entire interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS—May be acknowledged before a commissioner of Louisiana, whose certificate under seal will admit it to record here. This officer may also certify to the official character and functions of all public officers in the State for which he is appointed. All instruments should be attested by two male witnesses beside the Louisiana commissioner or officer taking acknowledgment, and he himself should assign and fix his seal at the same place witnesses sign. Any acknowledgment made in conformity with the laws of the State where the act is passed is valid here. The official character of the person before whom the acknowledgment is made, however, must be properly verified.

When they are not executed or acknowledged before a commissioner of Louisiana, they must be authenticated, if public records, in the manner prescribed by U. S. Rev. Stat., § 906, otherwise in the manner prescribed for affidavits. Acknowledgment of deeds executed within this State, conveying lands situated in or out of the State, may be made before a notary public, or parish recorder, or his deputy, in the presence of two witnesses, or it may be drawn up and signed as a private act, and then acknowledged with the above formalities, or the witnesses may go before the recorder and swear that they saw the party sign. If the grantor be unknown, the officer taking the acknowledgment should in some way be satisfied of his identity.

Deeds or other papers by corporations are executed by the proper officer in the same form as individuals.

No seal or scroll of private individuals is authorized or required by the laws of this State.

All instruments concerning real estate must be evidenced by writing, and the act should be duly recorded in the parish where the property is situated.

It is not necessary for a married woman to join with her husband in any act affecting his real estate, unless she has a mortgage or privilege recorded against it.

Whenever a married woman unites with her husband in a deed affecting his real estate, it is the duty of the officer before whom the act is passed to examine her apart from her husband, touching the freedom of her action, and to inform her fully of the nature of her rights upon the property of her husband, and it must appear upon the face of the act that this has been done. In other cases, no particular form of words is required; any words which express the fact that the parties appeared before the officer and executed or acknowledged the instrument being sufficient.

TRUST DEEDS—Are not in use.

DESCENT AND DISTRIBUTION OF PROPERTY—Legitimate children inherit from their ascendants without distinction of sex or primogeniture, and though they be from different marriages. They receive equal portions when in the same degree, and inherit by their own right; they receive by roots when they inherit by representation, which is recognized in the descending and collateral lines.

If one leaves no descendants, but a father and mother, and brothers and sisters, or descendants of these last, the estate is divided into two equal portions, one of which goes to the parents, the other to the brothers and sisters of the deceased, or their descendants.

If the father or mother of the person who has died without isssue has died before him, the portion which would have been inherited by such deceased parent goes to the brothers and sisters of the deceased, or their descendants.

If the deceased has left neither descendants, nor brothers, nor sisters, nor descendants from them, nor father, nor mother, but only other ascendants, these ascendants inherit to the exclusion of all collaterals, as follows: If there are ascendants in the paternal and maternal line in the same degree the estate is divided into two equal shares, one of which goes to the ascendants on the paternal, and the other to those on the maternal side, whether the number of ascendants on each side be equal or not. In this case the ascendants in each line inherit by heads. But if there is in the nearest degree but one ascendant in the two lines such ascendant excludes those of a more remote degree.

Ascendants, to the exclusion of all others, inherit the immovables given by them to their descendants who die without posterity, but they must take them subject to the incumbrances which the donee has imposed.

If a person dies leaving no descendants, nor father, nor mother, his brothers and sisters, or their descendants, inherit to the exclusion of the ascendants and other collaterals.

When the deceased has died without issue, leaving neither brothers nor sisters, nor descendants from them, nor ascendants, his succession passes to his collateral relations, and among them the nearest in degree excludes the others.

DOWER.—See *Married Women*.

EXEMPTIONS.—The Constitution of 1879 exempts from seizure, by any process, the homesteads *bona fide* owned by the debtor and occupied by him, consisting of lands, buildings, etc., whether rural or urban, of every head of a family, or person having a mother or father, or person or persons dependent on him or her for support; also, one work horse, one wagon or cart, one yoke of oxen, two cows and calves, twenty-five head of hogs, or one thousand pounds of bacon or its equivalent in pork, whether these exempted objects be attached to a homestead or not, and on a farm the necessary quantity of corn and fodder for the current year, and the necessary farming implements to the value of two thousand dollars. But the property exempt shall in no case exceed two

thousand dollars in value; provided, however, that no husband shall be entitled to the exemption provided for, whose wife shall own in her own right and be in the actual enjoyment of property or means to the amount of two thousand dollars.

The person or persons claiming the benefit of the homestead and exemptions law must execute a written declaration of homestead, which must be sworn to and recorded in the book of mortgages for the parish where the homestead claim is situated.

Whenever the widow or minor children of a deceased person are left in necessitous circumstances, they shall be entitled to demand and receive from the succession of their deceased father or husband a sum which, added to the amount of property owned by them, or either of them, in their own right, will make up the sum of one thousand dollars, and which said amount shall be paid in preference to all other debts except those for the vendor's privilege and the expenses incurred in selling the property. If this claim of the widow or minor children is opposed, it must be proved, and necessitous circumstances shown to exist. The sheriff or constable cannot seize the linen and clothes belonging to the debtor or his wife, nor his bed, bedding, or bedstead, nor those of his family, nor his arms and military accoutrements, nor the tools and instruments, and books, and sewing-machines necessary for the exercise of his or her calling, trade, or profession by which he or she makes a living; nor shall he in any case seize the rights of personal servitude, of use and habitation, of usufruct to the estate of a minor child, nor the income of dotal property, nor money due for the salary of an officer, nor laborers' wages, nor the cooking-stove and utensils of the said stove, nor the plates, dishes, knives and forks, and spoons, nor the dining-table and dining chairs, nor washtubs, nor smoothing irons and ironing furnaces, nor family portraits belonging to the debtor, nor the musical instruments played on or practiced on by any member of the family.

MARRIED WOMEN.—The separate property of the wife cannot be sold by the husband. She may administer it herself, unless there is an ante-nuptial contract to the contrary. All property acquired during marriage, the earnings of the joint or separate labor of the spouses, and the revenues of the separate property of each, enters into the community, and is equally divided between them. In other words, marriage is a kind of partnership and at its dissolution the husband and wife each take back what they brought in, and the profits, without any reference to the amount of capital contributed by either, are equally divided.

The wife has a mortgage upon all the real estate of her husband to secure the repayment of all sums received by him for her account during marriage. But she may renounce this mortgage. The wife has no dower in her husband's real estate. She may sell her separate estate with the authorization and assistance of her husband.

If the wife is a public merchant she may, without being empowered by her husband, obligate herself in anything relating to her trade; and in such case her husband is bound also, if there exists a community of property between them. She is considered a public merchant if she carries on a separate trade, but not if she retails only the merchandise belonging to the commerce carried on by her husband.

A married woman cannot bind herself or her property for her husband's debts.

MECHANICS' LIENS.—Liens in this State are known as privileges. Architects, contractors, and all persons who are employed in constructing or repairing any building, and all persons who have supplied the owner, agent, or sub-contractor with materials to be used on any building, have a lien and privilege on the buildings and lot of land not exceeding one acre. The privilege must be recorded with the register of privileges in the parish where the property is, together with the act containing the bargain made, or a statement of the account.

MORTGAGES.—Are in use, and are executed before notaries or by act under private signature. They are discharged by payment of the debt they were given to secure. The best evidence of discharge is cancellation upon the books of the recorder's office, by the recorder, who is bound to make this cancellation whenever satisfactory evidence of the payment is produced to him.

WILLS.—Under the law of Louisiana, the father, mother, and descendants of the deceased are called forced heirs, because they cannot be deprived of a certain portion of the estate of their ascendants or descendants. The portion of which they cannot thus be deprived is called their *legitime*, and that portion of his estate of which the testator may dispose is called the disposable portion.

Donations *inter vivos*, or *mortis causa*, cannot exceed two-thirds of the property of the disposer, if he leaves at his decease a legitimate child; one-half, if he leaves two children, and one-third, if he leaves three, or a greater number. Under the name *children* are included descendants of whatever degree they be, it being understood that they are only counted for the child they represent.

Donations *inter vivos*, or *mortis causa*, cannot exceed two-thirds of the disposer's property, if the disposer, having no children, leave a father, mother, or both.

Any disposal of property, whether *inter vivos* or *mortis causa*, exceeding the *quantum* of which a person may legally dispose to the prejudice of the forced heirs, is not null, but only reducible to that *quantum*.

In all dispositions *inter vivos* or *mortis causa*, impossible conditions, those which are contrary to the laws or to morals, are considered not written. Substitutions and *fidei commissa* are and remain prohibited.

Every disposition by which the donee, the heir, or legatee, is charged to preserve for or to return a thing to a third person, is null, even with regard to the donee, the instituted heir, or the legatee.

The disposition by which a third person is called to take the gift, the inheritance, or the legacy, in case the donee, the heir, or the legatee does not take it, shall not be considered a substitution, and shall be valid. The same shall be observed as to dispositions *inter vivos* and *mortis causa*, by which the usufruct is given to one and the naked ownership to another.

MICHIGAN:

Signifying in the Indian language from which it is derived the "*Lake Country;*" called also the "WOLVERINE or LAKE STATE." French navigators skirted its shores as early as 1612. Jesuit missions are said to have been founded in the Upper Peninsula in 1641. Marquette established a mission at Sault Ste. Marie in 1668, and another the same year at Michilimackinac. These are regarded as the first completely ascertained white settlements within the State.

Formed out of the territory northwest of the Ohio river ceded in 1783–'88 to the United States by Virginia and other States; separated from the Territory of Indiana, of which it at first formed a part, and organized into a Territory by the act of January 11, 1805; it was, by the act of January 26, 1837, admitted as a State.

Area: In square miles, 56,451; in acres, 36,128,640. Lake shore-line, 1,620 miles.

Counties, 83.

Lansing the capital: population, 9,774; Detroit the metropolis: population, 132,956; Grand Rapids noted for its thriving manufacturing industries; population, 41,898; Jackson, 19,100; East Saginaw, 29,085; Muskegon, 17,825. Detroit, Grand Haven, Port Huron, and Marquette ports of entry.

Population of State, 1,853,658.

Temperature at Detroit in winter, 24° to 36°; in summer, 67° to 72°. Rainfall, 30 inches.

AGRICULTURAL STATISTICS (State census of 1884):

No. of farms, 159,605; acres in farms, 14,852,226; acres of improved land, 8,974,656.

Total value of farms, including fences and buildings, $571,443,462.

Total wages, including board, paid in 1883 to indoor and outdoor and dairy farm hands, $13,532,695.

Farming implements and machinery valued at $21,897,486.

Farm products—crop of 1886: *Indian corn:* Product, 27,635,000 bushels; area in crop, 948,069 acres; average yield per acre, 29.1 bushels; value per bushel, 38 cents; total valuation, $10,501,300. *Wheat:* Product, 26,572,000 bushels; area in crop, 1,662,721 acres; average yield per acre, 16 bushels; weight per bushel, 59 pounds; value per bushel, 73 cents; total valuation, $19,397,560. *Rye:* Product, 300,000 bushels; area in crop, 23,463 acres; average yield per acre, 12.8 bushels; value per bushel, 56 cents; total valuation, $168,000. *Oats:* Product, 18,521,000 bushels; area in crop, 628,116 acres; average yield per acre, 20.5 bushels; value per bushel, 34 cents; total valuation, $6,297,140. *Barley:* Product, 1,133,000 bushels; area in crop, 50,348 acres; average yield per acre, 22.5 bushels; value per bushel, 58 cents; total valuation, $657,140. *Buckwheat:* Product, 430,000 bushels; area in crop, 39,065 acres; average yield per acre, 13 bushels; value per bushel, 55 cents; total valuation, $236,500.

Potatoes: Product, 11,725,000 bushels; area in crop, 146,568 acres; average yield per acre, 80 bushels; value per bushel, 39 cents; total valuation, $4,572,750.

Hay: Product, 1,642,883 tons; area in crop, 1,419,311 acres; average yield per acre, 1.16 ton; value per ton, $9.50; total valuation, $15,607,389.

Total area in crop, 4,911,661 acres.

Total valuation of crop, $57,437,779.

Sorghum (State census of 1884): Sugar, 9,421 pounds; molasses, 56,638 gallons. *Maple sugar,* 1,945,863 pounds; molasses, 171,273 gallons.

Flax: Seed, 311 bushels; straw, 2,578 tons; fiber, 55 pounds. *Broom corn:* 7,390 pounds; hops, 94,468 pounds.

Orchard products: Apples, 4,092,806 bushels; peaches, 290,091 bushels. Value of orchard products, $2,671,161.

Vineyards: Grapes, 1,550,702 pounds; wine, 24,685 gallons.

Nurseries: Value of product, $134,027.

Wages of farm labor per month by the year: Without board, $25.20; with board, $17. Day wages in harvest: Without board, $1.80; with board, $1.40. Day wages of ordinary farm labor: Without board, $1.20; with board, 90 cents.

Dairy products (State census of 1884): Milk sold or sent to butter and cheese factories, 11,023,048 gallons; butter made on farms, 43,494,211 pounds; cheese made on farms, 539,308 pounds.

Canada peas, 501,407 bushels; beans, 186,704 bushels.

Tobacco, 33,686 pounds.

Apiarian products: Honey, 1,265,445 pounds; wax, 29,863 pounds.

Market product valued at $572,216.

Forest product valued at $8,898,528.

Farm animals (January 1, 1888): *Horses:* Number, 458,913; average price, $91.80; value, $42,126,440. *Mules:* Number, 6,035; average price, $103.82; value, $626,572. *Milch cows:* Number, 437,303; average price, $29; value, $12,681,787. *Oxen and other cattle:* Product, 511,406; average price, $25.16; value, $12,865,948. *Hogs:* Number, 906,255; average price, $6.30; value, $5,789,700.

Sheep: Number, 2,113,004; average price, $2.72; value, $5,743,990.

Wool clip (State census of 1884): Fleeces, 2,724,789; weight, 15,337,249 pounds.

MANUFACTURES (State census of 1884):

No. of establishments, 8,302. Capital invested, $136,697,397. Average number of hands employed: Adult males, 114,890; females, 8,245; children and youths, 5,872; total, 128,918. Total wages paid, $44,213,739.

Agricultural implements, flouring and grist mills, foundries and machine shops, wagons, barrels, breweries, brick and tile, butter and cheese factories, furniture, leather, woolen mills, etc.

Lumber the great manufacturing interest of the State. Number of establishments, 1,649; capital employed, $39,260,428; hands employed, 22,875; children and youth, 1,360; annual wages paid, $6,967,905; value of logs, $30,819,003; value of mill supplies, $1,432,369; value of all materials, $32,251,372; lumber, sawed, 4,172,572,000 feet board measure; total value of all products, $52,449,928.

MINES:

Coal, copper, iron, gypsum, plaster, stucco, lime, grindstones, and building stone.

Number of mines, 106; capital invested, $41,441,962; hands employed, 13,193; total wages paid per annum, $6,286,355.

Copper mines in Keewenaw, Ontonagon, and Haughton counties; iron in Delta and Marquette counties; coal in Shiawassa, Ingham, Eaton and Jackson counties.

Fisheries: Number, 316; capital invested, $702,365; hands employed, 1,338; total wages paid per annum, $253,683.

Valuable fisheries (whitefish and trout) at Au Sable, Detroit, and Grand Haven.

Salt product, 3,252,175 pounds.

Railroads, June 30, 1887: Mileage, 5,012.13; total track, 6,603.54 miles; locomotives, 814; total revenue cars, 23,452.

SCHOOL STATISTICS:

District schools: Number, 6,322; total salaries to teachers, $1,424,245; average attendance, 159,148; value of school property, $4,025,934.

Parochial schools: Number, 161; total salaries to teachers, $103,333; average attendance, 18,933; value of school property, $444,305.

Graded schools: Number, 554; total salaries to teachers, $1,289,350; average attendance, 113,146; value of school property, $6,926,025.

Seminaries and academies: Number, 13; total salaries to teachers; $34,997; average attendance, 1,180; value of school property, $281,000.

Colleges: Number, 12; total salaries to teachers, $65,998; average attendance, 3,584; value of school property, $1,636,400.

Libraries: Number, 36,716; volumes, 4,806,749.

Presidential, congressional, and State elections Tuesday after first Monday in November; senators, 32—representatives, 100; sessions of legislature biennial in odd numbered years, meeting first Wednesday in January; no limit of session; terms of senators and representatives, 2 years.

Electoral college, 13; duellists disfranchised.

Legal interest, 6 per cent.; by contract, 10 per cent.; usury forfeits excess of interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS—Executed in this State, of lands or any interest therein, shall be executed in the presence of two witnesses, who shall subscribe their names to the same as such. They may be acknowledged within this State before any judge or commissioner of a court of record, or before any notary public or justice of the peace, and the officer taking such acknowledgment shall indorse thereon a certificate of the acknowledgment thereof, and the true date of making the same under his hand.

Husband need not join in conveyance of wife's property. Formerly it was necessary to take the acknowledgment of the wife separately and apart from her husband when they join in a conveyance; but "hereafter the acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property may be taken in the same manner as if she were sole." (Laws 1875, p. 142, H. S. § 5662.)

A scroll answers for a seal, but no bond, deed of conveyance, or other contract in writing signed by any party, his agent or attorney, shall be deemed invalid for want of a seal or scroll affixed thereto by such party. (H. S. § 7778.)

DESCENT OF PROPERTY, REAL AND PERSONAL.—An alien may acquire and hold lands or any interest therein by purchase, devise, or descent, and may mortgage or dispose of the same, and at his death they will descend to his heirs in all respects the same as if he were a citizen of this State or of the United States. (H. S. § 5772*a*, as amended by Act No. 169, p. 180, S. L. 1883.)

When any person dies seized of any lands or of any interest therein not having lawfully devised the same, they descend subject to the payment of his debts in the following manner: 1. In equal shares to his children and to the issue of any deceased child by right of representation, and if there be no child of the intestate living at his death, his estate shall descend to all his other lineal descendants, and if all the said descendants are in the same decree of kindred to the intestate, they shall share the estate equally, otherwise they shall take according to the right of representation. 2. If he shall leave no issue, his estate shall descend to his widow during her natural lifetime, and after her decease to his father and mother in equal shares; and if there be no mother, then the father alone; and if there be no issue or widow, to his father and mother in equal shares; and if no mother, then to the father alone. 3. If there be no issue, nor widow, nor father, one-half descends to the mother and the balance to the brothers and sisters in equal shares, and to the children of any such who may be deceased. 4. If the intestate shall leave no issue, nor widow, nor father, and no brother or sister living at his death, his estate shall descend to his mother to the exclusion of the issue, if any, of deceased brothers or sisters. 5. If there be no issue, nor widow, and no father, mother, brother, or sister, it descends to his next of kin in equal degree, except that when there are two or more collateral in equal degrees but claiming through different ancestors, those claiming through the nearest shall be preferred. 6. If any person shall die leaving several children, or leaving one child and the issue of one or more other children, and any such surviving child shall die under age and not having been married, all the estate that came to the deceased child by inheritance from such deceased parent shall descend in equal shares to the other children of the same parent and to the issue of any such other children who shall have died, by right of representation. 7. If, at the death of such child who shall die under age and not having been married, all the other children of his said parent shall also be dead, and any of them shall have left issue, the estate that came to said child by inheritance

from his said parent shall descend to all the issue of other children of the same parent, and if all the said issue are in the same degree of kindred to said child, they shall share the said estate equally, otherwise they shall take according to the right of representation. 8. If the intestate shall leave a widow and no kindred his estate descends to the widow. 9. If the intestate leaves no widow nor kindred his estate shall escheat to the People of the State for the use of the primary school fund. All the real and personal estate of any person except the widow's dower is subject to the payment of his debts, but the personal estate is first chargeable.

In this State when a person dies possessed of any personal estate not disposed of by will, the widow, if any, is allowed all articles of wearing apparel and ornaments of herself and the deceased, and his household furniture not exceeding two hundred and fifty dollars in value, and other personal property which she may select to the amount of two hundred dollars. The widow and children constituting the family have from the personal estate such an amount as their circumstances may require for their support during progress of settlement of the estate—which time, if the estate is insolvent, is limited to one year after granting administration

If on the return of the inventory it appears that the estate does not exceed one hundred and fifty dollars over and above the allowances to widow and family, the probate court has discretionary power to give her the whole. If the estate amounts to more, the debts are paid out of it. One-third of the residue goes to the widow, and the remaining two-thirds to the children.

If there is but one child it is equally divided between it and the widow. If there shall be no children the widow takes it all if less than one thousand dollars. If more, then equally between widow and father of the deceased. If he be not living, then that half goes to the mother, brothers, and sisters of deceased in equal shares. If there be none of the above parties surviving, the widow takes the whole. In any other case it is distributed according to the rules for descent of real estate.

If a *feme covert* dies leaving personal estate undisposed of by will after the payment of debts, funeral expenses, and administration charges, the residue is distributed, one-third to the husband and the balance to her children or their issue. If there be but one child, the husband and such child share equally. If there be no child nor issue of any, the husband takes one-half and her father one-half. If he be not living such half goes to her mother, brothers, and sisters, or to the issue of any such, equally. If there be no father, mother, brother, or sister, nor issue of any, the husband takes the whole.

A female is capable at the age of sixteen, and a male at eighteen, of contracting marriage, if otherwise competent.

With the consent of the proper person she may bind herself as an apprentice until she shall arrive at eighteen unless sooner married, but she does not arrive at her full majority so as to dispose of her property until she arrives at twenty-one years, our statute having made no further changes than as above.

If a testator of personal estate leave a wife she may have the provision under the will, or, at her option, what she might take under the statute of distribution, until the same amounts to five thousand dollars, and of the residue of the estate one-half of what she would have received under the said statute. If no provision is made for her by will she may take under the statute. If the testator give her any thing in lieu of some other thing or interest to which she would be entitled in case of intestacy, the taking of any such bequest or refusal to take it, and the taking instead what the law would allow, does not deprive her of the right to have the remaining dispositions of the will left unimpaired and to have the benefit thereof. The wife's election must be in writing and filed in probate court within one year after probate of the will.

EXEMPTIONS.—The laws of this State exempt from sale on execution to every householder a homestead not exceeding forty acres of land and the house thereon, if in the country, or a house and lot in any city or village not exceeding in value fifteen hundred dollars. If it exceeds that amount in value it may be sold, and after paying the judgment debtor the above sum the balance may be taken by the creditor. A married householder cannot sell or incumber such homestead without the consent of his wife.

Of personal property, the laws exempt from sale on execution various articles, such as seats in churches, cemeteries, tombs, and rights of burial, all arms and accoutrements, and all wearing apparel of every person and his family, the library and school books of every individual and family, not exceeding one hundred and fifty dollars, and all family pictures. To each householder, ten sheep and their fleeces, two cows, five swine, and provisions and fuel sufficient to keep such householder and family six months. To each householder, all household goods, furniture, and utensils, not exceeding two hundred and fifty dollars in value. The tools, implements, material, stock, apparatus, team (either one yoke of oxen, a horse, or pair of horses, as the case may be), vehicle, horses, harness, or other things to enable any person to carry on the profession, trade, occupation, or business in which he is wholly or principally engaged, not exceeding in value two hundred and fifty dollars, and also one sewing machine, and a sufficient quantity of hay, grain, feed, etc., to keep the animals enumerated for six months. By act 14, p. 11, S. L. 1885, only household goods, library pictures, rights in cemeteries, and one cow and provisions and fuel for one month, not exceeding five hundred dollars in value, are exempt from execution issued on judgment for labor. No lien can be created by mortgage or otherwise on any of the above property, except the two hundred and fifty dollars' worth of tools, implements, etc., used in carrying on profession, etc., without the consent of the wife, if he have one, by signing such mortgage or lien.

None of the property above mentioned, except mechanical tools and implements of husbandry, is exempt from execution on a judgment rendered for the same property.

If a person entitled to the benefit of a homestead shall die, his widow or minor children shall have the same benefit during the time they continue to occupy the same.

MARRIED WOMEN.—The real and personal estate which may have been acquired by any female before marriage through any source or by any means whatever, and all that she may acquire afterwards of any kind or from any source shall continue her sole property the same as if unmarried, and shall not be liable for any of her husband's debts or undertakings, and may be sold, conveyed, incumbered, or otherwise disposed of by her the same as if sole.

Under these statutes she may carry on business in her own name, may deal directly with her husband; she may make contracts in her own name, buy goods, give notes in settlement of purchases, etc., binding her own separate property, real and personal; and it would seem that all common law disabilities have been removed, except that in becoming surety for her husband or other third persons she does not bind her separate property.

The husband is not liable for the contracts of his wife in relation to her sole property, nor does he hold her lands or any part thereof after her death as tenant by the curtesy or otherwise.

When judgment shall be rendered against husband and wife for a tort or wrong done by the wife, execution shall issue against her property alone, nor shall his property be liable to pay any such judgment, nor can he be imprisioned on any such judgment. (H. S. § 7714.)

A wife's separate property would probably not be bound for the husband's debts, even though contracted for the support of herself or family; but she could bind her property for necessaries in the support of herself and family, should she choose to contract therefor in her own name.

Though a married woman may contract "with the like effect as if unmarried," and the dealings of an unmarried woman are in the same legal position as those of a man, a married woman has no general capacity to contract, and can only make such contracts as relate to her own property, and become personally liable only on account of her own matters. She cannot enter into an undertaking with her husband merely as his surety, and cannot be held on her contract without affirmative proof that it is her own and within her powers. Her contract of suretyship will not bind her unless made on behalf of her sole property, and should appear to have been so made and upon a sufficient consideration for that purpose, and her note given simply with her husband or any third person as surety for the other's debt would not bind her. She may, however, give a mortgage on her separate property for another's debt, because in that case she expressly pledges it. Therefore when it is desired to fix the responsibility of a married woman for the payment of a debt not contracted by her in respect to her own property, she should be required to give a specific pledge, such as a mortgage or other lien. Her homestead rights are retained, and also her common law rights of dower in her husband's lands.

The capacity to make contracts (except of marriage) is fixed by the common law, as respects age, twenty-one years being lawful age. By statute (H. S. § 6209) females are capable of contracting marriage when sixteen years of age.

MECHANICS' LIENS.—Every person who, under any express or implied contract with the owner, lessee, or contractor, alters, improves, repairs, erects, or ornaments any building, wharf, or other structure, or furnishes labor or materials for any of said purposes, has a lien thereon and on the land to the extent of a quarter section, or, in a city, the lot or lots. A sub-contractor, laborer, or material man has a similar lien. A written, verified statement, setting forth the time when the labor was performed or material furnished, a description of the property, the name of the owner, and amount due, must be filed in the office of the register of deeds of the county where the land lies by a principal contractor within ninety days, and by a sub-contractor, material man, or laborer, within thirty days after the last of material is furnished or labor performed, which must also be served on the owner if to be found in the county, or on his agent having charge of the premises.

The lien is treated as a mortgage, and enforced through the court of chancery.

MORTGAGES.—A mortgage cannot be construed as containing an implied covenant to pay; and when no express covenant to pay is contained in it, and no note or other personal obligation accompanies it, the land mentioned in the mortgage is the only remedy.

Mortgages should be recorded in the office of the register of deeds of the county in which the land lies, and if not so recorded, are void as against any subsequent purchaser of the same premises for a valuable consideration whose conveyance shall be first duly recorded.

Mortgages may be discharged by the mortgagee, his personal representative, or his assignee, by a written acknowledgment on the margin of the record, in presence of the register, or by a written certificate by either of the same parties; but the certificate must be executed the same as the mortgage, so as to entitle it to record.

WILLS.—Every person of full age and sound mind may dispose of his property by will. No will, except it be a nuncupative, is effectual to pass any estate, whether real or personal, unless it be in writing and signed by the testator or by some person in his presence and by his express direction, and attested and subscribed in the presence of the testator by two or more competent witnesses.

All wills and the probate thereof are recorded in the probate court. (H. S. § 6756.) An attested copy of every will devising lands or any interest in lands, and of the probate thereof, shall be recorded in the registry of deeds of the county in which the lands thereby devised are situated. (H. S. § 5822.)

MINNESOTA:

An Indian name signifying "*Cloudy Water*," "*Whitish Water* or *Sky Colored Water*." It is also called "THE GOPHER STATE," visited by

the French Jesuits in 1680, and a French trading post established at Falls of St. Anthony. First permanent settlement made in 1812 on Red river.

That part of State west of the Mississippi river formed out of Territory (the so-called "Louisiana Purchase") ceded to the United States in 1803 by France, and that east of the Mississippi out of the northwest territory ceded in 1783–'88 by Virginia and other States. Organized as a Territory by the act of March 3, 1849; and its people, having, under the enabling act of February 26, 1857, framed a constitution and State government, it was, by the act of May 11, 1858, admitted into the Union.

Area: In square miles, 83,531; in acres, 53,459,840.

Counties, 80.

Occupies central part of North America. In its northern part it includes "the Height of Land," ("*Hauteur des Terres,*") an extensive undulating table land with an average height of 1,000 feet, the highest region between the Gulf of Mexico and Hudson bay, dividing the Arctic plain from the Mississippi valley, and forming a water shed dispersing streams to all points of the compass. Southern section has a prairie surface.

St. Paul the capital; also a port of delivery, and noted for its industrial enterprise: population, 111,397. Pembina, on Red river, a port of entry. Minneapolis at the Falls of St. Anthony the metropolis; unlimited water power. A great commercial center, also famous like St. Paul for its milling, lumber, and other manufactures and its industrial enterprise.

Temperature: At St. Paul, in summer, 67° to 74°; in winter, 11° to 30°. Rainfall at Fort Snelling, 25 inches.

Population in 1880 of State, 1,118,486.

AGRICULTURAL STATISTICS:

No. of farms (1880), 92,386; total land in farms, 13,403,019 acres; improved land in farms, 7,246,693 acres.

Value in 1880 of farms, $193,724,260.

Farm products—crop of 1886: *Indian corn:* Product, 19,905,000 bushels; area in crop, 668,380 acres; average yield per acre, 29.8 bushels; value per bushel, 34 cents; total valuation, $6,767,700. *Wheat:* Product, 42,856,000 bushels; area in crop, 3,067,851 acres; average yield per acre, 14 bushels; weight per bushel, 57.8 pounds; value per bushel, 61 cents; total valuation, $26,142,160. *Rye:* Product, 462,000 bushels; area in crop, 33,031 acres; average yield per acre, 14 bushels; value per bushel, 44 cents; total valuation, $203,280. *Oats:* Product, 40,735,000 bushels; area in crop, 1,184,032 acres; average yield per acre, 34.4 bushels; value per bushel, 25 cents; total valuation, $10,183,750. *Barley:* Product, 8,455,000 bushels; area in crop, 367,601 acres; average yield per acre, 23 bushels; value per bushel, 42 cents; total valuation, $3,551,100. *Buckwheat:* Product, 72,000 bushels, area in crop, 6,343 acres; average yield per acre, 11.4 bushels; value per bushel, 60 cents; total valuation, $43,200.

Potatoes: Product, 5,306,000 bushels; area in crop, 63,161 acres; average yield per acre, 84 bushels; value per bushel, 37 cents; total valuation, $1,963,220.

Hay: Product, 600,000 tons; area in crop, 480,000 acres; average yield per acre, 1.25 ton; value per ton, $4.70; total valuation, $2,820,000.

Total area in above crops, 5,870,399 acres.

Total valuation of crop, $51,674,410.

Wages of farm labor per month by the year: Without board, $25.75; with board, $17.68. Day wages in harvest: Without board, $2.20; with board, $1.75. Day wages of ordinary farm labor: Without board, $1.30; with board, $1.

Farm animals, January 1, 1888: *Horses:* Number, 379,489; average price $82.86; value, $31,445,299. *Mules:* Number, 10,969; average price, $94.30; value $1,034,415. *Milch cows:* Number, 433,966; average price, $23.75; value, $10,306,693. *Oxen and other cattle:* Number, 489,886; average price, $20.36; value, $9,974,076. *Hogs:* Number, 549,793; average price, $5.92; value, $3,254,775.

Sheep: Number, 283,725; average price, $2.38; value, $674,698.

Wool clip (1880), 1,352,124 pounds.

Dairy products (1880): Milk, 1,504,407 gallons; butter, 19,161,385 pounds; cheese, 523,138 pounds.

Dairy interests annually increasing in importance and value.

MANUFACTURES (1880):

Number of establishments, 3,493; capital, $31,004,811; average number of hands employed, 21,247; total amount of annual wages paid, $8,613,094; value of materials, $55,660,681.

Value of products: Agricultural implements, $2,340,288; flouring and grist mill, $41,519,004; lumber, sawed, $7,366,038; lumber, planed, $657,377; clothing, men's, $1,662,855; cooperage, $1,007,643; foundry and machine shop, $1,606,518; liquors, malt, $1,153,122; publishing and printing, $1,043,664; sash, doors, and blinds, $1,344,618; boots and shoes, $930,192; slaughtering and meat packing, $887,532; woolen goods, $253,378; furnishing goods, men's, $499,250; carriages and wagons, $728,017; saddlery and harness, $859,955; tobacco, cigars, and cigarettes, $562,234, etc.

Total valuation in 1880 of products of manufactures, $76,065,198.

QUARRY STATISTICS (1880):

Number of quarries, 41; capital, $284,225; product, 3,169,113 cubic feet.

Value of products: Marble and limestone, $201,593; sandstone, $41,150; crystalline silicious rocks, $13,075.

Total value of product of quarries, $255,818.

As shown by the above statistics, wheat is the great agricultural staple, and milling and sawed lumber the most valuable manufacturing industries.

Total assessed valuation in 1880 of real estate and personal property, $258,028,687.

Railroads, June 30, 1887: Mileage, 8,446.79; total length of track, 9,942.65 miles; locomotives, 1,210; total revenue cars, 38,944.

Presidential, congressional, and State elections Tuesday after first Monday in November; senators, 47—representatives, 103; biennial sessions of legislature in odd numbered years, meeting Tuesday after first Monday in January; limit of sessions 60 days; term of senators 4 years—representatives, 2 years.

Electoral college, 7.

Colleges 5; excellent school system; school age 5-21; school population, 400,000.

Legal interest rate, 7 per cent.; by contract, 10 per cent.; usury forfeits all interest with costs.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Deeds must be signed, sealed, and aknowledged by the grantor, and attested by two witnesses, and recorded in office of register of deeds in the county where such lands are situated. If acknowledged within the State, the acknowledgment must be

made before a judge of the supreme, district, or probate court, or to a clerk of said courts, or before clerks of United States circuit and district courts for the district of Minnesota, a notary public, justice of the peace, register of deeds, court commissioner, county auditor, town clerk, city clerk, or recorder of a village; and where such officer has a seal of office he must affix such seal to the certificate of acknowledgment. (Laws of 1876, p. 50; Laws of 1877, p. 186; Laws of 1878, p. 103; G. S. 1878, ch. 40, §§ 1, 7, and ch. 72, § 11.)

Acknowledgments out of this State and within the United States can be taken only before the chief justice or associate justice of supreme court of United States, judges of the district courts of the United States, the judges or justices of the supreme, superior, circuit or other court of record of any State, Territory, or District within the United States; or before the clerks of the several courts above mentioned; or before justices of the peace, notaries public, or commissioners appointed by the governor of this State for such purpose; but no acknowledgments taken by any such officer shall be valid unless taken within some place or territory for which he shall have been selected or appointed to such office, or to which the jurisdiction of the court to which he belongs shall extend. (G. S. 1878, ch. 40, § 7.)

When deeds are executed outside of the State, unless the acknowledgment is taken before a commissioner appointed by the governor of this State for that purpose, or before a notary public or clerk of court of record, or some other officer having a seal of office, and the certificate of acknowledgment upon such deed, with the seal of office of such officer affixed thereto, there shall be attached or appended to or indorsed on such deed a certificate of the clerk, or other proper officer of a court of record of the county, district, or place where taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be; that he is acquainted with the handwriting of such person, and verily believes the signature subscribed to the certificate of acknowledgment is genuine. No separate acknowledgment of wife is required by our laws, but she must acknowledge her deed the same as her husband. (Laws of 1868, p. 100 and of 1869, p. 79; G. S. 1878, ch. 40, § 9.)

A deed of land in this State executed in a foreign country may be executed according to the laws of such country and acknowledged before any notary public therein, minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner, or consul of the United States appointed to reside therein. If taken before a notary public his seal of office must be affixed. If signed and sealed, with two witnesses, and acknowledged as above, it is sufficient, whether in accordance with the laws of such country or not. (Ch. 40, § 10, and laws of 1868, p. 101; G. S. 1878, ch. 40, § 10.)

A married woman may convey her separate estate, by joining her husband in the deed. (Laws of 1869, p. 70; G. S. 1878, ch. 40, § 2.) She is liable upon the covenants in her deed, the same as though she were a *feme sole*. (Laws of 1869, p. 71; G. S. 1878, ch. 69, § 2.) The separate acknowledgment of a married woman is not required. To convey her separate estate her husband must join with her in the conveyance. In this State a scroll answers for a seal, except in case of official seals. (Ch. 40, § 31; G. S. 1878, ch. 40, § 31.) As between grantor and grantee a deed is valid though not acknowledged, but without acknowledgment in form substantially as above it is not entitled to record.

TRUST DEEDS—Are not often used, and are constructed in all respects as mortgages, which see.

DESCENT OF PROPERTY.—*Real Property.*—Surviving husband or wife is entitled to hold for his or her life, free from the debts of the deceased, the homestead of such deceased; also to hold in fee simple or by such inferior title as the deceased was at any time during coverture seized or possessed, free from any testamentary or other disposition thereof to which such survivor shall not have assented in writing, one equal, undivided one-third of all other lands of which the deceased was at any time during coverture seized or possessed, but subject in its just proportion with the other real estate to payment of debts of deceased not paid from personal estate.

The residue of the real estate, or if there be no surviving husband or wife of the intestate, then the whole thereof descends as follows: 1. To children and lawful issue of any deceased child by right of representation. 2. If there is no child and no lawful issue of a deceased child of the intestate living at his death, to father. 3. If intestate leaves no issue, nor father, one equal one-third to mother and residue to brothers and sisters and to the lawful issue of any deceased brother or sister by right of representation. 4. If intestate leaves no issue, nor father, and no brothers nor sisters living at his death, then to mother, to exclusion of issue, if any, of any deceased brother or sister. 5. If intestate leaves no issue, father, nor mother, then in equal shares to brothers and sisters, and to issue of deceased brother or sister, by representation. 6. If intestate leaves no issue, father, mother, brother, nor sister, then to next of kin in equal degrees. Of collateral kindred in equal degrees, but claiming through different ancestors, those who claim through nearest ancestor preferred. 7. If a person dies leaving children, or one child and the issue of one or more other children, and any such surviving child dies under age, and not having been married, all the estate that came to such deceased child shall descend to the other children of same parent, and to the issue of any other such children who may have died, by right of representation. 8. If at the death of such child who dies under age and unmarried, all the other children of said parent are also dead, the estate that came to said child shall descend to issue of other children of same parent; if said issue are in same degree of kindred to said child they share equally; otherwise by right of representation. 9. If intestate leaves surviving a husband or wife, but no kindred, the estate descends to the survivor. 10. If intestate leaves no husband, wife, nor kindred, the estate shall escheat to the State. (Laws of 1876, p. 55; G. S., 1878, ch. 46, §§ 2, 4; Laws of 1885, p. 110.)

Degrees of kindred computed by rules of civil law. No distinction between half blood and whole blood as to right to inherit. (Ch. 46, § 4; G. S. 1878, ch. 46, § 7.)

PERSONAL PROPERTY—Descends the same as real property, except that before there is any distribution, sundry small provisions are made for support of widow and children under ten years of age. (Ch. 51, § 1, as amended by Laws of 1876, p. 60; G. S. 1878, ch. 51, § 1.)

DOWER.—Estate in dower and by the curtesy, are abolished. (Laws of 1875, p. 74.)

EXEMPTIONS.—Family bible, family pictures, school-books, or library, and musical instruments for use of family; seat or pew in any house or place of public worship; a lot in a burial ground; all wearing apparel of debtor and family; all beds, bedding, and bedsteads kept and used by debtor and his family; all stoves and appendages put up or kept for use of debtor and family; all cooking utensils, and all the household furniture not herein enumerated, not exceeding five hundred dollars in value; three cows, ten swine, one yoke of oxen and a horse, or in lieu thereof a span of horses or mules; twenty sheep, and the wool from same; necessary food for stock for one year, provided or growing, or both; one wagon, cart, or dray, one sleigh, two plows, one drag, and other farming utensils, including tackle for team, not exceeding three hundred dollars in value; one sewing machine, and grain necessary for one year's seed, not exceeding fifty bushels wheat, fifty bushels oats, thirty bushels barley, fifteen bushels potatoes, and three bushels corn and binding material for use in harvesting crop raised from seed grain above specified; the provisions for debtor and family for one year's support, provided or growing, or both, and one year's fuel; tools or instruments of any mechanic, miner, or other person, used and kept for the purpose of carrying on his trade, and stock in trade not exceeding four hundred dollars; library and implements of any professional man. Also, the wages of any laboring man or woman, or their minor children, not exceeding twenty dollars, due for services rendered during the ninety days preceding the issue of process, and moneys arising from insurance of exempt property. (Ch. 66, § 279; Laws of 1868, p. 112; 1870, p. 131; 1871, p. 122; 1872, p. 137; 1873, p. 189; 1878, p. 79; G. S. 1878, ch. 66, § 310; Laws of 1885, p. 44.)

In addition to articles above enumerated, all the presses, stones, type, cases, and other tools and implements used by any copartnership, or by any printer, publisher, or editor of any newspaper, and in the printing or publication of the same, not to exceed two thousand dollars in value, together with stock in trade not exceeding four hundred dollars in value, are exempt from attachment or sale. (Laws of 1876, p. 61; G. S. 1878, ch. 66, § 310.) Also a homestead not exceeding eighty acres of land with dwelling house thereon, to be selected by the owner, not included in the laid out or platted portion of any incorporated town, city, or village; or instead thereof, at the owner's option, a quantity of land not exceeding one lot, if within the laid out or platted portion of any incorporated town, city, or village having over five thousand inhabitants, or one-half acre if within the laid out or platted portion of any such town, city, or village having less than five thousand inhabitants, and the dwelling house thereon and its appurtenances, owned and occupied by any resident of this State, is not subject to attachment, levy, or sale upon execution. Such homestead is exempt while occupied by the widow or minor children of any person deceased, who was while living entitled to the benefit of the homestead act. (Ch. 68, as amended by Laws of 1875, p. 92; G. S. 1878, ch. 68, § 1.) If a married man absconds from the State, or deserts his wife or minor children, such wife and children may continue to occupy such homestead, and the same shall be exempt from levy or sale upon attachment, execution, or other final process issued against such husband and wife or either of them. (Laws of 1875, p. 92; G. S. 1878, ch. 68, § 1.)

MARRIED WOMEN.—All property real or personal, belonging to a woman at the time of her marriage, continues her separate property, and during coverture she may receive, hold, use, and enjoy property of every description, and all avails of her contracts and industry, free from the control of her husband and from any liability on account of his debts. She is responsible for her torts, her property is liable for her debts, and she is capable of making, and is bound by, her contracts the same as if she were *feme sole;* except that no conveyance or contract for the sale of real estate, or of any interest therein, other than mortgages on lands for the purchase-money thereof and leases for a term not exceeding three years, shall be valid unless her husband shall join with her in the conveyance. Her separate property is liable only for her own personal debts arising from her own contracts or torts. Her husband is not liable for her debts or her contracts entered into either before or during coverture, except for necessaries furnished after marriage. Contracts between husband and wife, or powers of attorney from one to the other, relating to the real estate of either, are void. In relation to all other subjects, either may be the agent of the other, or contract the one with the other. (Laws of 1869, p. 69; Laws of 1878, p. 88; G. S. 1878, ch. 69, §§ 1–4.) A married woman may sue and be sued in her own name without joining her husband. (Laws of 1869, p. 72; G. S. 1878, ch. 66, § 29.) A woman attains her majority at eighteen, but after marriage may join with her husband in deeds of conveyance though under age. (Ch. 40, § 2; G. S. 1878, ch. 40, § 2, and ch. 59 § 2.)

MECHANICS' LIENS.—All labor performed on any building, article, or utility, or that has entered into the construction of anything, is a first lien thereon to the full amount of the consideration agreed upon between the owner or employer and employee, with costs and attorney fee. All material furnished in the construction or building, or in aid thereof of any building, article, or utility or anything whatever, is a second lien thereon to the full amount of the consideration agreed upon, with costs and attorneys' fee.

Party claiming lien must file with the register of deeds of the county where labor was performed or material furnished within ninety days after last day on which labor was performed or material furnished, a statement of the amount of labor performed or material furnished, and serve a copy of same on the owner or agent of the property. Suit must be brought on the lien within four months after filing. No incumbrance upon land operates upon the building erected or material furnished until after the lien has been satisfied.

A contractor or sub-contractor receiving the full amount due under his contract and failing to pay persons performing labor or furnishing material, thereby allowing a lien to be filed, is liable to criminal prosecution.

MORTGAGES—Are executed and acknowledged the same as deeds, except that in purchase-money mortgage husband and wife need not join. A conveyance, though absolute in form, if intended as security, will be considered as a mortgage. Mortgages are usually given to secure notes; sometimes notes with interest coupons, and occasionally bonds with interest coupons.

Mortgages may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his executor, administrator, or assignee, acknowledging the satisfaction of the mortgage. Also, by a satisfaction of mortgage in usual form, duly executed and acknowledged, and recorded where the mortgage has been recorded. Wife need not join in the release unless she is a party to the mortgage. (Ch. 40, § 21, *et seq.*; G. S. 1878, ch. 40, §§ 1, 36.)

WILLS.—Every person of full age and sound mind may devise real or personal property. Coverture no disability.

No will (except nuncupative) is valid, unless in writing and signed by the testator, or by some person in his presence and by his direction, at the end thereof; and attested and subscribed in his presence by two or more competent witnesses.

No person beneficially interested in a will at the time of its execution is a competent witness to the same. (Ch. 47; G. S. 1878, ch. 47.)

Wills to be probated here, in the first instance, must be executed according to the laws of this State; and a will proved and allowed in any other State or country according to the laws thereof may be probated here, so as to operate upon real and personal property of the deceased, by the production of the copy thereof, and of its probate duly authenticated, to the probate court of the county wherein the real estate is situated, by the executor or other person interested in such will.

MISSISSIPPI:

From the river of that name—an Indian word signifying according to some "*The Father of Waters*," and to others "*Great and Long River*." Also called "THE BAYOU STATE." Formed out of territory ceded by South Carolina August 9, 1787, and by Georgia June 16, 1802, to the United States. Originally included Alabama. First permanent settlement in 1716 at Natchez. Territorial government established by acts of April 7, 1798, and May 10, 1800. Eastern part separated and organized March 3, 1817, as a Territory under the name of Alabama. Admitted into the Union December 10, 1817. Seceded January 9, 1861, and readmitted February 23, 1870.

Area: In square miles, 47,156; in acres, 30,179,840. Frontage on Gulf, including irregularities of coast and islands, 287 miles. At Mississippi City, Biloxi, Shieldsboro', and Pascagoula are fine harbors.

Counties, 74.

Jackson the capital: population, 5,204; Vicksburg, on the Mississippi river, the principal cotton market: population 11,814; Natchez an extensive shipping depot: population, 7,058.

Temperature at Vicksburg: In winter, 47° to 56°; in summer, 80° to 83°. Rainfall at Natchez, 54 inches.

Population of State in 1880, 1,131,597.

AGRICULTURAL STATISTICS:

Number of farms (1880), 101,772; land in farms, 15,855,462 acres; improved land in farms, 5,216,937 acres.

Total value of farms, $92,844,915.

Average value per acre, cleared land, $7.88; woodland, $3.78.

Farm products—crop of 1886: *Indian corn:* Product, 25,507,000 bushels; average yield per acre, 13.1 bushels; area in crop, 1,946,666 acres; value per bushel, 59 cents; total valuation, $15,049,130. *Wheat:* Product, 173,000 bushels; average

yield per acre, 4 bushels; area in crop, 43,062 acres; weight per bushel, 59 pounds; value per bushel, $1.10; total valuation, $190,300. *Rye:* Product, 10,000 bushels; average yield per acre, 9.9 bushels; area in crop, 1,008 acres; value per bushel, $1.25; total valuation, $12,500. *Oats:* Product, 3,368,000 bushels; average yield per acre, 9.5 bushels; area in crop, 355,001 acres; value per bushel, 63 cents; total valuation, $2,121,840.

Hay: Product, 28,350 tons; average yield per acre, 1.5 ton; area in crop, 27,000 acres; value per ton, $12.40; total valuation, $351,540.

Potatoes: Product, 573,000 bushels; average yield per acre, 67 bushels; area in crop, 8,556 acres; value per bushel, 87 cents; total valuation, $498,510.

Cotton: Product, 935,390 bales; average yield per acre, .367 bale; acres in crop, 2,548,674; value per pound, 8 cents 3 mills.

Total valuation of cotton crop, $37,654,110.

Total area in crop, 4,929,967 acres.

Total value of crop of 1886, $55,877,930.

Cotton lands mostly in Yazoo county and Mississipi bottoms.

Tobacco (1880): Product, 414,663 pounds; acres in crop, 1,471. *Rice:* Product, 1,718,951 pounds; acres in crop, 3,501. *Sugar cane:* area in crop, 4,555 acres; sugar, 18 hogsheads; molasses, 536,625 gallons.

Great wealth in her timber supplies. Extensive forests of chestnut, pine, magnolia, oak, and walnut on the uplands and bluffs, as also of long leaf pine on sandy regions and islands of the south.

Farm animals, January 1, 1888: *Horses,* 134,065; average price, $71.95; value, $9,645,784. *Mules,* 159,548; average price, $87.68; value, $13,988,374. *Milch cows,* 285,904; average price, $15.55; value, $4,445,807. *Oxen and other cattle,* 428,909; average price, $9.48; value, $4,064,000. *Sheep,* 247,830; average price, $1.57; value, $390,332. *Hogs,* 1,226,689; average price, $3.10; value, $3,801,754.

Dairy products (1880): Milk, 427,492 gallons; butter, 7,454,657 pounds; cheese, 4,239 pounds.

Wages of farm labor per month by the year (1888): Without board, $15.03; with board, $10.09. Day wages in harvest: Without board, 97 cents; with board, 73 cents. Day wages of ordinary farm labor: Without board, 75 cents; with board 55 cents.

MANUFACTURES (1880):

Number of establishments, 1,479; capital, $4,727,600; average number of hands employed, 5,827; total wages paid per annum, $1,192,645; value of materials, $4,667,183.

Value of products: Cotton goods, $691,415; flouring and grist mill, $1,762,523; lumber, sawed, $1,920,335; oil, cottonseed and cake, $560,363; woolen goods, $299,605; all other industries, $2,284,061.

Total valuation in 1880 of manufacturing products, $7,518,302.

Total assessed valuation in 1880 of real estate and personal property, $79,469,530.

Railroads, June 30, 1887: Mileage, 708.67; total track, 735.45 miles; locomotives, 42; total revenue cars, 558.

Governor and other executive officers of the State elected quadriennially; legislature elected every 2 years; presidential, congressional, and State elections Tuesday after first Monday in November; biennial sessions of legislature in even numbered years, meeting Tuesday after first Monday in January; no limit of session; senators, 37—representatives, 120; term of senators, 4 years—of representatives, 2 years.

Electoral college, 9.

Colleges, 3; school age, 5–21; school population, 444,131.

Legal interest rate, 6 per cent.; by contract, 10 per cent. Usury forfeits entire interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Conveyances of wife's lands made previous to November 1, 1880, must be by joint deed of herself and husband. Conveyances of the homestead must be by joint deed, else the conveyance is void as to two thousand dollars in value on the property conveyed. Any estate may be made to commence *in futuro*. Every estate granted is deemed a fee, unless a less estate is expressly limited or clearly appears to be intended. The rule in Shelly's case is abolished. Conveyances purporting to convey a greater estate than the grantor may lawfully convey operate to the extent that he may lawfully convey. The words "grant, bargain, and sell" operate as a covenant of seizin of an estate free from incumbrance made or suffered by the grantor (except the rents and service that may be reserved), and also for quiet enjoyment against the grantor, his heirs and assigns. Acknowledgments and proof of deeds or other written contracts required by the laws of this State to be recorded may be made in this State before any judge of the supreme court, or any judge of the circuit court, any chancellor, any clerk of a court of record, who shall certify such acknowledgment or proof under the seal of his office, or any justice of the peace, or member of the board of county supervisors, whether the lands conveyed be within his county or not. If the party executing the conveyance of lands in this State, or the witnesses thereto, resides not or be not in this State, but in some other State or Territory of the Union, the acknowledgment or proof may be made before any justice of the supreme court of the United States, or any district judge of the United States, or any judge or justice of the supreme or superior court of any State or Territory of the Union, or any justice of the peace, whose official character shall be certified under the seal of some court of record in his county, or before any commissioner residing in such State or Territory, appointed by the governor of this State to that end, or before any notary public or clerk of a court of record, having a seal of office, in any State or Territory of the Union.

Unacknowledged instruments may be proved by one or more of the subscribing witnesses thereto, as above stated. If the grantor and witnesses be dead or absent, so that his or their personal attendance cannot be had, then the handwriting may be proved.

TRUST DEEDS.—See *Mortgages*.

DESCENT AND DISTRIBUTION OF PROPERTY.—Estates of inheritance of an intestate descend: 1. To the children or their descendants by right of representation. 2. To the brothers and sisters or their descendants by same right. 3. To the father and mother, if living, or to the survivor of them. 4. To the next of kin, computed by the rules of the civil law. There is no representation amongst collaterals, except of brothers and sisters alone. There is no distinction between the whole and the half blood, except that kindred of the whole blood are preferred to those of the half blood in equal degree. A surviving wife or husband takes the whole property in fee, where there are no surviving children or descendants of children; and where there are, takes a child's part.

Personal property descends according to the foregoing rules.

Hotchpot is observed. Where there is no person capable of taking under the statute the property, real and personal, escheats.

If the husband by will makes a devise of property not satisfactory to the widow she may, within six months of the probate, renounce the will as to herself, and elect to take her dower and distributive share.

Personal property in this State descends according to the above rules, whatever may be the domicile of the intestate, widow, heirs, or distributees.

DOWER.—Estates in dower and by the curtesy exist where the death occurred prior to November 1, 1880.

EXEMPTIONS.—No property is exempt from execution when the purchase-money thereof forms, in whole or in part, the debt on which the judgment is founded; nor is any property exempt from sale for non-payment of taxes or assessments, or for materials furnished therefor, or from a debt for labor done thereon, or where the judgment is for labor performed, or upon a forfeited recognizance or bail bond.

Subject to the foregoing rules, the exempt property is as follows: A homestead to every citizen of the State, male or female, being a householder and having a family, not to exceed two thousand dollars in value, nor one hundred and sixty acres in extent; this exemption is forfeitable if the debtor cease to reside on the place, unless his removal be temporary, by reason of some casualty or necessity, and with the purpose of speedily reoccupying it as soon as the cause of absence can be removed. If the premises is worth more than two thousand dollars, it may be divided, if practicable, if not, sold, and two thousand dollars of the proceeds paid to the debtor, the remainder to the creditor.

The following property of each head of a family or housekeeper is also exempt: 1. Two horses or mules, or one yoke of oxen; 2. Two cows and calves; 3. Five head of stock hogs; 4. Five sheep; 5. One hundred and fifty bushels of corn; 6. Three hundred bundles of fodder; 7. Ten bushels of wheat or rice; 8. Two hundred pounds of meat; 9. One cart or wagon, not to exceed in value one hundred dollars; 10. One sewing-machine; 11. Household and kitchen furniture not to exceed one hundred dollars in value; 12. Crops while growing; one saddle and bridle, fifty bushels of cotton-seed, forty gallons of molasses or sorghum, and one thousand stalks of Louisiana cane. For such persons as live

in cities, towns, and villages, there is exempt personal property to be selected by the debtor, not to exceed two hundred and fifty dollars in value. This seems to be an exemption in lieu of the foregoing, not in addition to it.

One hundred dollars of a laborer's or mechanic's wages are exempt; and the following also, without reference as to the status of debtor as to family: 1. The tools of a mechanic necessary for carrying on his trade; 2. Agricultural implements of a farmer, necessary for two male laborers; 3. The implements of a laborer necessary in his employment; 4. The books of a student required for the completion of his education; 5. Wearing apparel; 6. The libraries of licensed attorneys, practicing physicians, and ministers, also the instruments of surgeons and dentists, not to exceed two hundred and fifty dollars; 7. The arms and accoutrements of each enrolled malitianan; 8. All globes, books, and maps used by the teachers of schools, academies, and colleges. The amount of any life insurance policy, not exceeding ten thousand dollars, is exempt from debts of deceased.

The title to exempt property vests in the widow and children or husband and children, as tenants in common, by operation of law, on the death of the debtor. The executors and administrators are required to designate it and "set it aside" in their appraised inventory; but they never have the title to it. If there be no widow, husband, or children surviving, the property is liable to creditors. The debtor may sell his exempt property and convey good title; also, he may remove it from the State.

MARRIED WOMEN—May acquire, hold, enjoy, sell, bequeath, and in all other respects deal with their property, and may make all kinds of contracts, free from any of the common law disabilities. Gifts or conveyances between husband and wife are void, unless in writing, acknowledged and recorded; and all contracts between them for compensation for service are void; nor can the husband rent the wife's plantation and outfit for his own benefit except by a written lease, acknowledged and filed for record.

If the husband converts the wife's property or income he becomes her debtor; but cannot be made to account for income after one year. If he employs her income in the support of the family, with her consent, he is not liable. He is not liable for her antenuptial debts.

Women become of age at twenty-one.

MECHANICS' LIENS.—Every building, bridge, or addition to any fixed machinery or gearing, or fixtures for manufacturing purposes, every boat or water-craft, and every paling or enclosure is liable for the payment of any debt contracted and owing for labor performed or materials furnished about the erection, alteration, or repair of the same, and the debt is a lien on the building or structure and the land on which it is. The lien takes effect from the time of filing the contract in the office of the chancery clerk for the county where the land is, or from the commencement of suit to enforce it, and such suit must be begun within six months after the money claimed is due and payable. Sub-contractors, or employees, or furnishing men of a contractor, are not entitled to a lien.

MORTGAGES—Must be executed, acknowledged, and recorded as other conveyances, and will bar dower as other conveyances. Between the parties they are enforceable where given on future acquired property. They are foreclosed by bill in the chancery court and sale thereunder. Mortgagees may sell under an express power of sale, and may purchase at the sale. They are discharged by payment of the debt or performance of the contract; and the mortgagee or trustee, when satisfaction is received, must enter satisfaction upon the margin of the record, and the title reinvests in the mortgagor. In all cases where the remedy at law to recover the debt is barred, the remedy in equity on the mortgage is also barred. See *Deeds*.

WILLS—May be made by any person twenty-one years of age. If not written and subscribed wholly in the hand of the testator, two witnesses are necessary to devise realty or personalty. They are probated in the common form in the chancery court, or before the clerk on monthly rule days, and are recorded in that office.

MISSOURI:

From the river of that name—an Indian word signifying "*Mud River*," or "*Muddy*." Also called the "PENNSYLVANIA OF THE WEST." Settled by the French in 1755 at St. Genevieve, and at St. Louis in 1764. Fort Orleans, near Jefferson City, built in 1719 by the French. Formed out of the so-called "Louisiana Purchase" ceded in 1803 to the United States by France. Included by the act of March 26, 1804, in the "district of Louisiana." Organized into a Territory by the act of June 4, 1812, which provided that "the Territory heretofore called Louisiana shall hereafter be called Missouri," which at that date also included the Territory now known as Arkansas. A memorial in 1819 of the territorial legislature of Missouri, praying for admission into the Union, gave rise in Congress and throughout the country to a debate

between parties favoring and opposing its admission with a constitution recognizing slavery. The debate was a violent, protracted, and even perilous one, menancing the existence of the Union. A compromise was finally effected confirming slavery in Missouri, but prohibiting it in all the territory acquired with Louisiana north and northwest of Missouri, or above the line of 36° 30′ north latitude, and Missouri was admitted August 10, 1821, by proclamation of the President, under the resolution of March 2, 1821, it having complied with "a fundamental condition" required by that resolution protecting the "immunities and privileges" of its colored freedmen.

Area: In square miles, 65,370; in acres, 41,836,931. Frontage on the Mississippi river, nearly 550 miles.

Temperature at St. Louis, in winter, 30° to 43°; in summer, 75° to 80°. Rainfall, 42 inches.

Counties, 115.

Jefferson City the capital: population, 5,271. St. Louis a port of entry and the largest city west of the Mississippi; also a great manufacturing and commercial center: population (in 1880), 350,518. The city of St. Joseph has a trade amounting annually to $60,000,000 and $80,000,000, and its wholesale and jobbing trade is assuming mammoth proportions: population (in 1880), 32,431. Kansas City ("the CHICAGO OF THE WEST") an important railroad and trade depot, and the center of a region of extraordinary agricultural resources, and abounding in coal, lead, iron, etc.: population in 1880, 55,787

Population of State (1880), 2,168,380.

AGRICULTURAL STATISTICS:

No. of farms (1880), 215,575; total land in farms, 27,879,276 acres; improved land in farms, 11,134,245 acres.

Total value of farms, $375,633,307.

Average value per acre: Best cleared land, $50 to $150 per acre; medium classed land, $10 to $35 per acre; woodland, $8.25 per acre.

Farm products—crop of 1886: *Indian corn*: Product, 143,709,000 bushels; average yield per acre, 22.2 bushels; area in crop, 6,484,600 acres; value per bushel, 31 cents; total valuation, $44,549,790. *Wheat:* Product, 21,986,000 bushels; area in crop, 1,662,721 acres; average yield per acre, 13.2 bushels; weight per bushel, 59.5 pounds; value per bushel, 63 cents; total valuation, $13,851,180. *Rye:* Product, 571,000 bushels; average yield per acre, 12 bushels; area in crop, 47,551 acres; value per bushel, 50 cents; total valuation $285,000. *Oats:* Product, 30,577,000 bushels; average yield per acre, 23.4 bushels; area in crop, 1,305,884 acres; value per bushel, 25 cents; total valuation, $7,644,250. *Barley:* Product, 180,000 bushels; average yield per acre, 22.5 bushels; area in crop, 7,995 acres; value per bushel, 48 cents; total valuation, $86,400. *Buckwheat:* Product, 66,000 bushels; average yield per acre, 9.3 bushels; area in crop, 7,073 acres; value per bushel, 60 cents; total valuation, $39,600.

Hay: Product, 1,464,750 tons; average yield per acre, 1.09 ton; area in crop, 1,338,750 acres; value per ton, $7; total valuation, $10,253,250.

Potatoes: Product, 4,109,000 bushels; average yield per acre, 50 bushels; area in crop, 82,189 acres; value per bushel, 42 cents; total valuation, $1,725,780.

Tobacco: Product, 11,959,000 pounds; average yield per acre, 745 pounds; area in crop, 16,053 acres; value per pound, 7 cents; total valuation, $837,130.

Total area of State in crop, 10,952,816 acres; total valuation of farm products, $79,272,880.

Wages of farm labor, per month by the year: Without board, $21; with board, $14.20. Day wages in harvest: Without board, $1.43; with board, $1.13. Day wages of ordinary farm labor: Without board, 94 cents; with board, 80 cents.

Farm animals, January 1, 1888: *Horses:* Number, 782,104; average price, $57.59; value, $45,040,996. *Mules:* Number, 225,563; average price, $66.59; value, $15,019,534. *Milch cows:* Number, 737,259; average price, $20.25; value, $14,929,495. *Oxen and other cattle:* Number, 1,429,453; average price, $18.24; value, $26,077,367. *Hogs:* Number, 3,798,799; average price, $3.96; value, $15,043,246. *Sheep:* Number 1,087,690; average price, $1.74; value, $1,894,973.

Manufactures (1880):

Number of establishments, 8,592; capital, $72,507,844; average number of hands employed, 63,995; total wages paid during year, $24,309,716; value of materials, $110,798,392.

Value of products of manufactures: Agricultural implements, $1,141,822; boots and shoes, $1,982,993; bags and other paper, $1,730,000; brick and tile, $1,602,522; bread and other bakery products, $3,250,192; carriages and wagons, $2,483,738; men's clothing, $3,822,477; cooperage, $1,904,822; cotton goods, $524,580; flouring and grist mill, $32,438,831; slaughtering and meat packing, $14,628,630; gold and silver reduced and refined, $4,158,606; iron and steel, $4,660,530; iron bolts, nuts, washers, and rivets, $493,560; lead, bar, pipe, sheet, and shot, $548,000; leather, curried, $336,623; leather, tanned, $435,072; liquors, malt, $5,048,077; liquors distilled, $527,530; lumber, sawed, $5,265,617; lumber, planed, $1,267,636; marble and stone work, $1,003,544; paint, $2,825,800; printing and publishing, $4,452,962; soap and candles, $1,704,941; sugar and molasses, $4,475,740; tin, copper, and sheet ironware, $1,687,320; tobacco, cigars, and cigarettes, $1,524,381, etc.

Total value of manufactured products, $165,386,205.

Mine Statistics (1880):

Bituminous coal: Product, 543,990 tons; value, $1,037,100; *Iron ore:* Product, 386,197 tons; value, $1,674,875. *Lead ore:* Product, 28,315 tons; value, $1,478,571. *Zinc ore:* Product, 34,344 tons; value, $599,373. *Copper ingots:* Product, 230,717; value, $25,730. Minor minerals (value), $13,196.

Total value of all mining products, $4,828,845.

Quarry Statistics:

Marble and limestone: Product, 4,419,300 cubic feet; value, $421,211. *Sandstone:* Product, 194,000 cubic feet; value, $81,960. *Crystalline silicious rocks:* Product, 86,300 cubic feet; value, $110,000.

Number of quarries, 34; capital invested, $328,550; product, 4,699,600 cubic feet.

Total value quarry products, $613,171.

Railroads, June 30, 1887: Mileage, 7,818.58; total track, 12,081.27 miles; locomotives, 1,082; total revenue cars, 33,585.

Governor and other State executive officers elected quadrennially; legislature, every 2 years. Presidential, congressional and State elections Tuesday after first Monday in November; senators, 34—representatives, 141; biennial sessions of legislature in odd-numbered years, meeting Wednesday after January 1; sessions limited to 70 days; term of senators, 4 years—of representatives, 2 years.

Electoral college, 16.

Colleges, 17; excellent school system amply supported; school age, 6–20; school population, 741,632.

Legal interest rate, 6 per cent.; by contract, 10 per cent.; usury forfeits entire interest.

State Laws in Relation to Deeds, Dower, Descent and Distribution of Property, Married Women, Mechanic's Liens, Mortgages, and Wills.

Deeds.—Deeds must be under seal. A scrawl affixed to an instrument expressed therein to be sealed is sufficient. They must be acknowledged, if done *in this State*, before a court having a seal, or some judge, justice, or clerk thereof, notary public, or justice of the peace of the county where the estate lies; if done *out of this State*, then before a commissioner of the State, notary public, court of record of the United States or of any State or Territory having a seal, or clerk of any such court, and if done in a foreign country then before any court of any state, kingdom, or empire having a seal, or the mayor or chief officer of any city or town having an official seal, or before a minister or consul of the United States, or a notary public having a seal.

No witnesses are necessary to the validity of any deed to be used in this State. If the acknowledgment to a deed be taken by a notary public of this State, the certificate of the officer must give the date when his commission expires.

Every deed, mortgage, conveyance, deed of trust, bond, or other instrument of writing authorized by law to be recorded, in order to be recorded must be acknowledged before some officer authorized to take acknowledgment of deeds, whose certificate shall be attached to such instrument.

Trust Deeds.—See *Mortgages* and *Deeds of Trust*.

Descent and Distribution of Property.—All property of a person dying intestate descends and is distributed as follows: 1st, to children or their descendants in equal parts; 2d, if there be no children or their descendants, then to father, mother, brothers, and sisters, or their descendants in equal parts; 3d, the previous classes not existing, then to husband or wife; 4th, these failing, then to grandparents, uncles, and aunts, and their descendants in equal parts, and thus passing to the nearest lineal ancestors and their descendants in equal parts. In all cases the heirs of the half blood take only half the shares of like heirs of the whole blood. If all the heirs are in the same degree of relationship to the decedent they take *per capita;* if in unequal degree the nearest take *per capita*, the more remote *per stirpes*. When the husband dies without issue the widow takes one-half of the estate, and also absolutely all the property which came to him by the marriage and remains undisposed of, provided she make her election as below stated. See *Dower*.

Dower.—The wife's dower in the real estate of the husband is one-third for life if she survive him. Her inchoate right of dower cannot be disposed of by any act of the husband (except in partition suits), or of his creditors. Upon the death of the husband leaving a child or descendant, the wife is entitled to a share in his personal estate equal to the share of a child. If the husband die leaving no descendant surviving, then the widow will take absolutely all personal property which came to the husband in right of the marriage, and also one-half of the real and personal estate of which the husband was owner at the time of his death, provided she make a written election to take such property subject to the payment of the husband's debts. This election must be in writing, acknowledged as in the case of a deed, and recorded in the county where letters of administration were granted. This must be done within twelve months after the grant of such letters. If no such election is made, she will take no interest in the personalty, and will take only ordinary dower in the realty. (Bryant *vs.* Christian, 58 Mo. 98.)

Exemptions.—The following personal property is exempt from execution or attachment when owned by a person not the head of a family: 1st, wearing apparel; 2d, necessary tools and implements of trade of any mechanic while carrying on his trade; and when owned by a person who is the head of a family, the following: 1st, ten head of choice hogs; 2d, ten head of choice sheep and the product thereof in wool, yarn, or cloth; 3d, two cows and calves; 4th, two plows, one axe, one hoe, and one set of plow gears, and all necessary farm implements for the use of one man; 5th, working animals of the value of one hundred and fifty dollars; 6th, spinning wheels and cards; 7th, one loom and apparatus necessary for manufacturing cloth in a private family; 8th, all the spun yarn, thread, and cloths manufactured for family use; 9th, any quantity of hemp, flax, and wool, not exceeding twenty-five pounds each; 10th, all wearing apparel of the family; 11th, four beds with the usual bedding, and such other household and kitchen furniture, not exceeding the value of one hundred dollars, as may be nessary for the family, agreeably to an inventory thereof to be returned on oath with the execution by the officer levying the same; 12th, all arms and military equipments required by law to be kept; 13th, all such provisions as may be on hand for family use, not exceeding in value one hundred dollars; 14th, the bibles and other books used in the family, lettered gravestones, and one pew in a house of worship; 15th, the necessary tools and implements of trade of any mechanic while carrying on his trade, and all lawyers, physicians, and ministers of the gospel may select such books as shall be necessary to their profession in the place of other property above mentioned, and doctors of medicine in lieu of property exempt may select their medicines.

The right is also given to the head of a family to select as exempt in lieu of the property mentioned in the above first five subdivisions other property, real or personal or mixed, not exceeding in value three hundred dollars.

All court houses, jails, clerks' offices, and other public buildings and the ground whereon they stand, when owned by the county or a municipal corporation therein, are also exempt from execution; also all burial grounds.

No property is exempt from seizure and sale for taxes. Nor if defendant is a non-resident or is about to abscond or leave this State; but if he be a married man and he has absconded or absented himself from his place of abode, his wife may claim the exemption. Nor is any personal property in the hands of the purchaser thereof, except an innocent purchaser for value without notice, exempt against an execution upon a judg-

ment for the purchase money. Nor is there any exemption against a claim for wages of a house servant or common laborer to the amount of ninety dollars, provided suit is brought within six months.

Every housekeeper or head of a family is entitled to have exempt from execution and attachment the homestead occupied by him, not exceeding in value three thousand dollars in cities of over forty thousand inhabitants, and not exceeding in quantity eighteen square rods of ground. In cities having less than forty thousand and not less than ten thousand inhabitants the homestead cannot exceed in value fifteen hundred dollars, nor thirty square rods of ground; in cities having less than ten thousand inhabitants, five acres, and not exceeding in value fifteen hundred dollars; and one hundred and sixty acres of land in the country, not exceeding in value fifteen hundred dollars. A homestead may be conveyed or incumbered as other property, and for that purpose no special form of conveyance is required. If no such conveyance or incumbrance has been made, the wife of the owner of the homestead may file her claim to the tract of land occupied by her and her husband, or by her alone if the husband has abandoned her. Such claim must describe the property, and state that the claimant is the wife of the person in whose name the property appears of record, and must be acknowledged as deeds are, and recorded in the county recorder's office. After such filing no conveyance of or incumbrance on the homestead can be made without the consent of the wife.

Upon the death of a person owning a homestead, leaving minor children or widow surviving, such homestead vests as a homestead in the widow and minor children until the death of the widow and until the youngest child is of age. The fee simple of the property, subject to the homestead so continued therein, will pass by descent or devise, and may be sold for the decedent's debts as in other cases. If the decedent during his lifetime has legally charged his homestead with the payment of any debt, such charge will continue and may be enforced after his death.

Married Women.—Married women may hold real or personal property separate and apart from their husbands and free of the debts of the husband. The real estate and income of a married woman is not subject to the husband's debts, nor can he dispose of it unless she unite with him in conveying it. This real estate is liable, however, for necessaries of the family and for improvements made upon it. Stocks and bonds given by a parent to a daughter are declared to be her property notwithstanding her marriage, and shall not be liable for the husband's debts, except for necessaries of the family.

By an act of the general assembly approved March 25, 1875 (R. S. 3296), and act of March 16, 1883, all personal property and choses in action belonging to a married woman, no matter how the same may be after said act acquired by her, becomes and is her separate property, free of the husband's debts, but not free of debts contracted by the wife before marriage, or for debts of husband for necessaries of wife or family. For such personal property, including rights in action, a married woman may sue in her own name and without joining her husband, as if she were *sole*. To make such property the property of the husband will require a written transfer from her, or a written admission that the husband shall be the sole owner of the property or chose in action.

A married woman can make contracts in her own name which will bind her *separate property*, real and personal. Her separate property left to her by will before or after marriage is not bound for her husband's debts without act of hers. The husband's property, except such as he may have acquired from the wife, is not liable for the wife's debts contracted before the marriage.

Females are of full age at eighteen years, and males at twenty-one; but males at the age of eighteen may make wills of personal property.

Mechanics' Liens.—Every person performing any work or furnishing any materials, fixtures, engines, boilers, or machinery for any building, erection, or improvement on land, or for repairing the same, has a lien for his services on the building and land belonging to the owner on which the building is, to the extent of one acre, or if in a city, town, or village, on the lot and building. Every original contractor within six months, every journeyman and day laborer within thirty days, and every other person within four months, must file with the clerk of the circuit court for the county where the property is, a true account of his demand, a description of the property, and the owner's name, and action to enforce the lien must be begun within ninety days after filing such account. Sub-contractor or laborer must give owner ten days' notice before filing lien.

Mortgages and Deeds of Trust.—Mortgages and deeds of trust must be executed and acknowledged like other deeds, and must be recorded. The common form of security in this State is a deed of trust. By it the property is conveyed to a trustee with power to sell and to convey the property absolutely if the debt, usually expressed by notes, is not paid. This proceeding is without suit. Mortgages and deeds of trust may be satisfied, at an expense of thirty-five cents, upon the margin of the record of the mortgage or deed of trust in the recorder's office; if satisfied by the assignee of the notes the notes must be produced for cancellation or affidavit of their payment be made. Releases may also be made by deed. Trustees in deeds of trust are prohibited from releasing such deeds unless the creditor joins in such release.

Wills.—Wills as to realty may be made by male persons over the age of twenty-one years; and as to personalty, by male persons over the age of eighteen years. Women of the age of eighteen, whether married or single, may make wills as to their realty and personalty. The dower of a wife and curtesy of the husband cannot be affected by a will unless the provisions of the will in that respect are accepted by the non-rejection of the provisions of the will within a specified time and in a certain formal way. Wills must be in writing, signed by the testator, and attested at his request and in his presence by two witnesses. Wills of non-residents, to be effective as to real estate situated in this State, must be executed as prescribed by the laws of this State. After probate thereof wills should be recorded in the office of the recorder of deeds of the county where they have been probated, and copies duly certified should also be recorded in all other counties where the estate has any realty.

MONTANA:

Formed out of the so-called "Louisiana Purchase" ceded to the United States in 1803 by France. Included at one time within the territorial limits of Oregon and Nebraska. Created a Territory by the act of May 26, 1864, and subsequently in 1873, 2,000 square miles were added to it from Dakota.

Area: In square miles, 143,776; in acres, 92,016,640. Greatest length from east to west, 540 miles; width, 275 miles. Valleys and bench lands cover an area of 47,000 square miles at a less altitude than 3,000 feet. Mean average height above level of the sea, 3,000 feet. Valuable timber forests of pines, spruces, firs, etc.

Counties, 17.

Three-fifths of Territory estimated as suitable for agricultural purposes; nearly another fifth valuable for grazing purposes.

Great water courses are the Clark's Fork of the Columbia, the Missouri with its chief tributaries, the Milk and the Yellowstone rivers: navigable within the Territory for 1,500 miles. The Missouri, its greatest commercial highway, traverses 1,000 miles of Montana soil, and is navigable for 4,000 miles from the interior to Gulf of Mexico.

The scenery, mountains, hills, valleys, and lakes are grand and beautiful. The streams abound with fish, and the plains with buffalo, deer, antelope, elk, etc. Game birds abundant; the hunter's paradise.

The Great Falls of the Missouri, one of nature's wonders, has a perpendicular fall of 90 feet.

Climate dry, healthy and invigorating. Miasma unknown.

Hot or warm springs found in many parts; lakes numerous. Long and well earned reputation for cure or alleviation of lung diseases.

Helena the capital and most important city: population in 1880, 3,624. Butte City: population, 3,363. Virginia city: population, 624.

Three United States district courts—held at Helena twice a year, and at Virginia city three times a year.

Estimated population in 1887, 130,000.

Temperature: At Virginia city, in winter, 17° to 30°; in summer, 55° to 65°. Rainfall increasing.

AGRICULTURAL STATISTICS:

No. of farms (in 1880), 1,519; total land in farms, 405,683 acres; improved lands in farms, 262,611 acres.

Total value in 1880 of farms, $3,234,504.

Farm products—crop of 1886: *Indian corn:* Product, 22,000 bushels; area in crop, 890 acres; average yield per acre, 24.7 bushels; value per bushel, 65 cents; total valuation, $14,300. *Wheat:* Product, 1,509,000 bushels; area in crop, 88,896 acres; average yield per acre, 17 bushels; weight per bushel, 58.3 pounds; value per bushel, 75 cents; total valuation, $1,131,750. *Oats:* Product, 1,987,000 bushels; area in crop, 56,774 acres; average yield per acre, 35 bushels; value per bushel, 55 cents; total valuation, $1,092,850. *Barley:* Product, 72,000 bushels; area in crop, 3,144 acres; average yield per acre, 22.9 bushels; value per bushel, 46 cents; total valuation, $33,120.

Potatoes: Product, 451,000 bushels; area in crop, 4,253 acres; average yield per acre, 106 bushels; value per bushel, 90 cents; total valuation, $405,900.

Hay: Product, 152,048 tons; area in crop, 139,650 acres; average yield per acre, 1.09 ton; value per ton, $10.50; total valuation, $1,596,504.

Total area in crop, 293,607 acres.

Total value of crop, $4,274,424.

Wages of farm labor per month by the year: Without board, $40; with board, $27.50. Day wages in harvest: Without board, $2.20; with board, $1.50. Day wages of ordinary farm labor: Without board, $1.70; with board, $1.20.

Farm lands great in area and richly productive, Reported estimated yield of 1887 without irrigation: Oats at 80 bushels per acre; wheat at 65 bushels per acre; Indian corn at 40 bushels per acre; potatoes at from 200 to 300 bushels per acre. Abundant crop of small fruits. Increased rainfall and new irrigating canals stimulate farming.

Orchard products plentiful.

Farm animals, January 1, 1888: *Horses:* Number, 187,344; average price, $50.96; value, $9,547,985. *Mules:* Number, 5,537; average price, $63.53; value, $351,746. *Milch cows:* Number, 31,132; average price, $28.40; value, $884,149. *Oxen and other cattle:* Number, 934,500: average price, $19.21; value, $17,948,007. *Hogs:* Number, 22,289; average price, $6.77; value, $150,898.

Sheep: Number, 1,265,000; average price, $2.10; value, $2,658,398.

Improvement in character of sheep. High and dry ranges of the northwest the natural home of the sheep.

Estimated value of wool clip of 1887 over $1,000,000.

Quality and quantity of wool have greatly improved; now ranks next to highest class of wool raised in the United States. Profits on wool growing estimated at from 25 to 35 per cent. on capital invested.

Stock raising important and most prosperous. Stock of high order. Reported estimates for 1887 gives: Cattle, 1,400,000; horses, 190,000: sheep, 2,000,000. Climate, soil, and grass peculiarly adapted to the raising of fine horses. Cattle raising comparatively free of expense; profits great. Rich grasses grow in luxuriance in the valleys. Cattle graze on the ranges throughout the entire year.

MANUFACTURES (1880):

No. of establishments, 196; capital, $899,390; average number hands employed, 578; value of materials, $1,006,442.

Value of products: Flouring and grist mill, $475,467; lumber, sawed, $527,695; all other industries, $832,705.

Total value in 1880 of products of manufactures, $1,835,867.

Three great railroad trunk lines stretch out and over this entire territory, affording all necessary transportation. Branch roads penetrate into the important mining sections.

Trade and commerce during 1887 amounted to $49,000,000.

Mining a leading industry. Its progress rapid and constant: Gold and silver, copper, lead, etc., successfully mined Good bituminous coal and lignite in nearly every county. Lumber and flour mills and smelting works.

Education: Schools, public and private, excellent, supported by liberal provisions. Substantial, commodious, and even elegant school buildings in its cities and towns.

Assessed valuation of taxable property for 1887, $69,600,000.

Congressional and territorial elections Tuesday after first Monday in November; senators, 12—representatives, 24; biennial sessions of legislature in odd-numbered years, meeting second Monday in January; limit of session, 60 days; terms of senators and members, 2 years.

Legal interest rate, 10 per cent.; any rate by contract.

TERRITORIAL LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS, ACKNOWLEDGMENTS, ETC.—Every conveyance in writing of or affecting real property must be acknowledged or proved and certified as hereafter stated. The proof or acknowledgment may be made within the Territory, before the secretary of the Territory, some judge or clerk of a court having a seal, a notary public, or justice of the peace, the county clerk and *ex-officio* county recorder; without the Territory, but within the United States, by some judge or clerk of any court of the United States or any State or Territory having a seal, a notary public, a justice of the peace, or commissioner appointed by the governor of the Territory for that purpose. If taken by a justice of the peace, his official character must be certified to under the seal of the court, tribunal, or officer within and for the county in which such justice of the peace may be acting, which has cognizance of his official character.

TRUST DEEDS—Not in use in this Territory.

DESCENT AND DISTRIBUTION OF PROPERTY.—The law of descent and distribution of estates of intestates, under the Probate Practice Act of 1877, is identical with that of California, which see.

DOWER.—The law of dower is virtually repealed by the Probate Act, which gives to surviving husband or wife one-half in fee if there are no children; if there are children, then one-third in fee. (Probate Practice Act, 1877.)

In the Probate Practice Act, February 16, 1877, § 550, it is provided that upon the death of the wife the entire community property belongs to husband without administration, except such portion as has been set apart by judicial decree for her support. This she may dispose of by will, and it goes to her heirs exclusive of her husband.

Section 551 of same act provides, that upon the death of the husband one-half of the community property goes to the surviving wife and the other half is subject to the husband's testamentary disposition. See *Married Women*.

EXEMPTIONS—Are as follows: All clothing of the debtor and family, and chairs, tables, desks, and books, to the value of one hundred dollars; also all necessary household, table, and kitchen furniture, which includes every article in use for the comfort of the debtor or his family, and provisions and fuel actually provided for individual or family use, sufficient for two months. One sewing machine, not exceeding the value of one hundred dollars, in actual use by the debtor or his family. Also one horse, two cows with their calves, two swine, and fifty domestic fowl. In addition to the above, there is exempt to a farmer his farming utensils not exceeding six hundred dollars in value, two oxen, or one horse or mule, and their harness, two cows, one cart or wagon, and food for such stock for three months; two hundred dollars' worth of seeds, grain, or vegetables actually provided for the purpose of sowing or planting. The proper tools, instruments, or books of any mechanic, physician, dentist, lawyer, or clergyman. To a miner, his dwelling, not exceeding in value five hundred dollars, and all his tools and machinery necessary for carrying on his avocation, not to exceed in value five hundred dollars, and one horse, mule, or two oxen, and their harness, with their food for three months, in case such stock is used necessarily in connection with any species of hoisting gear upon the mine. One horse, mule, or two oxen, vehicle and harness, by which the debtor habitually earns his living, and one horse with vehicle and harness, of physician and clergyman, used in making professional visits, with food for such stock for three months. All arms, uniforms, etc., required by law to be kept by any person. All property generally held by the county or town for the benefit of the county or the public, except as against a vendor's lien or a mortgage. The wages of a debtor earned at any time within thirty days next preceding the levy, provided that they are necessary for the use of his family residing in the Territory, supported wholly or in part by his labor. None but *bona fide* residents can claim the benefits of this law.

A homestead not to exceed in value twenty-five hundred dollars; if agricultural land, it is not to exceed one hundred and sixty acres. (Act of 1879.) If within the limits of a town plat, city, or village, not to exceed one-fourth of an acre. The debtor has his option of the two, and may select either, with all improvements thereon, which are included in the valuation. Such exemption does not affect the lien of any mechanic or laborer, or extend to any mortgage lawfully obtained. (See Code of Civil Procedure, 1877, §§ 311, 312.) By act of March 10, 1887, exemptions only apply to married men or the head of a family. No property is exempt from attachment or execution for wages of any clerk, mechanic, laborer, or servant.

MARRIED WOMEN.—The property of a married woman, owned before marriage, and any acquired after marriage by gift, grant, devise, descent, or otherwise, and the use, increase, and profits thereof, is exempt from debts or liabilities of husband except for necessaries for the benefit of herself and children under eighteen years of age. But such property so claimed must set forth in a list to be recorded with the register of deeds in the county where she resides. Females become of age at eighteen.

By act of February 4, 1874, a married woman may become a sole trader by making, acknowledging, and recording with county recorder of deeds her intention so to do, and setting forth the nature of the business that she intends to transact. If the amount by her invested in business exceeds ten thousand dollars the declaration must contain a statement under oath that the surplus above ten thousand dollars did not come from any funds belonging to her husband. Such married woman is responsible for the maintenance of her children. The husband is not liable for any debts contracted in the course of business done by his wife, except by special consent in writing.

By the act of March 3, 1887, a married woman has the same legal existence and personality after marriage as before, and may sue in her own name for injuries to her reputation, person, or property. By the act of March 7, 1887, contracts made by a married woman in respect to her separate property, labor, or services are not binding on her husband. She may make contracts, oral or written, and may waive or dispose of any interest in real essate, either in person or by attorney.

MECHANICS' LIENS.—Mechanics, laborers, and others who contribute to the construction, repairing, or improving of any kind of property have a lien thereon. Original contractor within ninety days of date of last item, sub-contractor within thirty days, must file in the county recorder's office his account, with description of property on which lien is claimed. Suit must be commenced by contractors within one year after filing, by sub-contractors within ninety days.

MORTGAGES.—Mortgages on real estate must be executed and recorded like deeds. The foreclosure of a mortgage is a civil action provided for in Code of Civil Procedure, 1877, p. 135. The mortgagor has six months in which to redeem after sale. Satisfaction may be made by entry in margin of record or by separate instrument duly executed. Failure to enter satisfaction for one week after request subjects the delinquent to forfeiture of one hundred dollars to mortgagee besides other damages.

WILLS.—Every person over the age of eighteen years and of sound mind may dispose of his real and personal estate, and all his right and interest therein, by last will and testament in writing. The will must be signed at the end thereof by the testator, or by some person in his presence and by his express direction, and attested and subscribed in his presence by two or more competent witnesses. A married woman may by will dispose of any property, real or personal, held by her, or to which she is entitled in her own right. Descent of real and personal property is provided for in the Probate Practice Act, and is in all respects the same as in California, which see.

NEBRASKA:

An Indian word signifying "*Water Valley*"—"*Shallow river.*" Part of the so-called "Louisiana Purchase" ceded to the United States in 1803 by France. As early as December 17, 1844, Hon. Stephen A. Douglas of Illlinois, introduced into the House of representatives a bill "to establish the Territory of Nebraska." It failed to become a law. Organized by the act of May 30, 1854, as a Territory. The bill, January 16, 1867, providing for the admission of Nebraska on the condition that the word "white" be struck out of its constitution wherever it occurred therein, and which was vetoed by President Andrew Johnson, became a law February 9, 1867, by its passage over the President's veto, and under its provision Nebraska was admitted as a State, by proclamation of the President March 1, 1867.

Area: In square miles, 73,558; in acres, 47,077,359.

Platte river its principal watercourse, running through the State east and west.

Counties, 79.

Temperature: At Omaha, in winter, 20° to 34°; in summer, 72° to 78°. Rainfall at Fort Kearney, 25 inches.

Lincoln the capital and thriving city: population (1885), 20,005. Omaha the metropolis and commercial center; also a port of de-

livery: population, 61,835. Plattsmouth: population, 5,796. Nebraska City: population, 5,597.

Population of State, 452,402.

AGRICULTURAL STATISTICS:

No. of farms (1880), 63,387; total land in farms, 9,944,826 acres; improved land in farms, 5,504,702 acres; value of farms, $105,932,541.

Lands cheap and fertile.

Farm products—crop of 1886: *Indian corn:* Product, 106,129,000 bushels; average yield per acre, 27.4 bushels; area in crop, 3,879,123 acres; value per bushel, 20 cents; total valuation, $21,225,800. *Wheat:* Product, 17,449,000 bushels; average yield per acre, 11 bushels; area in crop, 1,579,727 acres; value per bushel, 47 cents; weight per bushel, 57 pounds; total valuation, $8,201,030. *Rye:* Product, 894,000 bushels; average yield per acre, 13 bushels; area in crop, 68,733 acres; value per bushel, 32 cents; total valuation, $286,080. *Oats:* Product, 21,865,000 bushels; average yield per acre, 29.5 bushels; area in crop, 742,051 acres; value per bushel, 19 cents; total valuation, $4,154,350. *Barley:* Product, 3,786,000 bushels; average yield per acre, 22 bushels; area in crop, 172,088 acres; value per bushel, 31 cents; total valuation, $1,173,660. *Buckwheat:* Product, 29,000 bushels; average yield per acre, 8.6 bushels; area in crop, 3,356 acres; value per bushel, 60 cents; total valuation, $17,400.

Potatoes: Product, 3,278,000 bushels; average yield per acre, 60 bushels; area in crop, 54,630 acres; value per bushel, 40 cents; total valuation, $1,131,200.

Hay: Product, 1,392,000 tons; average yield per acre, 1.45 ton; area in crop, 960,000 acres; value per ton, $3.95; total valuation, $5,220,000.

Total area in annual crop, 7,459,708 acres.

Total valuation of crop, $41,589,520.

Wages of farm labor per month by the year: Without board, $25.59; with board, $17.18. Day wages in harvest: Without board, 1.80 cents; with board, 1.42 cents. Day wages of ordinary farm labor: Without board, $1.37; with board, $1.

Farm animals, January 1, 1888: *Horses:* Number, 412,980; average price, $75.82; value, $31,311,968. *Mules:* Number, 41,165; average price, $90.40; value, $3,721,363. *Milch cows:* Number, 357,202; average price, $25.50; value, $9,108,651. *Oxen and other cattle:* Number, 1,079,646; average price, $21.08; value, $22,763,690. *Hogs:* Number, 2,334,525; average price, $5.72; value, $13,341,813. *Sheep:* Number, 422,112; average price, $2.02; value, $852,456.

Wool clip (1880), 1,282,656 pounds.

Dairy products: Milk, 625,783 gallons; butter, 9,725,198 pounds; cheese, 230,819 pounds.

Stock raising, next to farming, the great industry of the State.

Fine grazing region in western part of State. Excellent herd law.

MANUFACTURES (1880):

No. of establishments, 1,403. Capital invested, $4,881,150. Average number of hands employed, 4,793. Total wages paid per annum, $1,742,311. Value of materials, $8,208,478.

Value of products: Flouring and grist mill, $4,193,086; slaughtering and meat packing, $1,359,397; saddlery and harness, $477,364; printing and publishing, $419,461; malt liquors, $393,870; brick and tile, $349,478; paint, $350,000; lumber, sawed, $265,062; tinware, copperware, and sheet ironware, $320,680; al other industries, $4,498,938.

Total value of manufacturing products, $12,627,336.

Advance in manufactures remarkable.

Number of establishments in 1870, 670; in 1880, 1,403. Capital in 1870, $2,169,963; in 1880, $4,881,150.

Coal, bituminous: Product, 200 tons; value, $750.

Railroads, June 30, 1887: Mileage, 3,333.82; total track, 3,804.85 miles; locomotives, 401; total revenue cars, 9,108.

Presidential, congressional, and State elections Tuesday after first Monday in November; senators, 33—representatives, 100; sessions of legislature biennial in odd-numbered years, meeting first Tuesday in January; limit of session, 40 days; terms of senators and representatives, 2 years.

Assessed valuation in 1880 of real estate and personal property, $90,585,782.

Electoral college, 5.

Colleges, 9; State university at Lincoln. School age, 5–21; school population, 135,511.

Legal interest rate, 7 per cent.; by contract, 10 per cent.; usury forfeits interest and cost.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Deeds of real estate must be signed by the grantor in the presence of at least one competent witness, who should subscribe his name as a witness thereto, and they must be acknowledged and approved. No seal is required. The term heirs, or other technical words of inheritance, are not necessary to create or convey an estate in fee simple. A married woman should waive her right of dower, and in case of a homestead it can only be incumbered and conveyed by an instrument signed jointly by the husband and wife. They do not take effect until recorded as to creditors and subsequent purchasers for value and without notice. The record is made in the office of the county clerk of the county in which the land is situated.

TRUST DEEDS—Are not void, or, if used, are construed as mortgages.

DESCENT.—Lands descend in equal shares to children and lawful issue of deceased child; if no children, to all other lineal descendants, who, if of same degree of kindred, take equally, otherwise by right of representation; if no issue, to widow for life, then to father; if no issue nor widow, nor father, in equal shares to brothers and sisters and to children of deceased brothers and sisters by right of representation; provided that the mother, if any, shall take equally with brothers and sisters; if no issue, widow, father, brother, or sister, to mother, to exclusion of issue of deceased brother or sister; if no kindred above mentioned, to next of kin in equal degrees; except of collateral kindred, those claiming through nearest ancestor are preferred; provided that if intestate is an unmarried infant, his estate inherited from deceased parent shall descend in equal shares to other children of same parent, and by right of representation to issue of such other children deceased; but if all such children are dead, and their issue aforesaid be of the same degree of kindred, they shall take equally; if widow and no kindred, to such widow; if no widow nor kindred, escheats to the people of the State. Illegitimate children are heir of mother and also of man who, in writing, etc., acknowledges himself to be the father. Estates of deceased illegitimate children descend to mothers. Degrees of kindred computed according to rules of civil law, and kindred of half blood inherit equally with those of whole blood, unless the inheritance came to intestate from ancestor of different blood. Child's inheritance is reduced by advancement in lifetime of intestate, and all gifts are presumed advancements *prima facie*. Posthumous children are considered as living at death of parent. (C. S., p. 215; § 30; p. 216, §§ 31, 32, 34; p. 217, § 41.)

Where a married woman, seized in her own right of any estate of inheritance in lands, dies, leaving no issue, the lands descend to her surviving husband during his natural life as tenant by curtesy, and after his death to her father. If she have no father, her estate descends to her mother. If she have no father nor mother, it descends in equal shares to her brothers and sisters and to the children of any deceased brother or sister, by right of representation. But if she have issue by any former husband, to whom the estate might descend, such issue shall take so much of the same as has not come to her as a gift from her surviving husband, discharged from his right as tenant by curtesy. And if she shall have issue by her surviving husband alone, or by her former husband and also by her surviving husband, then the surviving husband on her death holds as tenant by curtesy only one-third interest in the inheritance of his own issue by his deceased wife. (C. S. ch. 23, § 29, as amended by Laws of 1887.)

DISTRIBUTTION.—After paying debts, etc., of deceased, the residue or personal property of intestate shall be distributed in the same proportions to the same persons and for the same purposes as are prescribed for descent of real estate, except that the widow, if any, takes equally with a child. (C. S. p. 232, § 176.)

DOWER.—The widow of every deceased person is entitled to dower, or the use during her natural life of one-third part of all the lands whereof her husband was seized, of all estate of inheritance at any time during the marriage, unless she is lawfully barred thereof. (C. S. p. 212, § 1.)

EXEMPTIONS.—There is exempt from judicial sale to every family, whether owned by the husband or wife, a homestead, not exceeding in value two thousand dollars, consisting of dwelling-house in which claimant resides, and its appurtenances, and land on which same is situated not exceeding one hundred and sixty acres, or if within any incorporated city or village a quantity of contiguous land not exceeding two lots. (C. S., p. 295.) Or in case the debtor has no lands, there is exempt from execution five hundred dollars in personal property. If title to homestead is in wife it is exempt, and in such case the head of the family is not entitled to exemption of five hundred dollars in personalty. (7 Neb., 462.) Nor is he, if his title is simply a contract of sale. (Ib., 530.) The clothing of the family, family supplies for six months, supplies for domestic animals for three months, furniture, family bible and pictures, books, cooking utensils, certain domestic animals, tools, implements of trade, etc., are exempt; also sixty days' wages to any laboring man, clerk, etc., who is the head of a family; provided that there is no exemption from attachment or execution for wages due to any clerk, laborer, or mechanic, or for money due and owing by any attorney at law for money or other valuable consideration received by such attorney for any person or persons. (C. S., p. 599, § 521; p. 600, §§ 530, 531.) Exempt property is not susceptible of fraudulent alienation. All pension money of United States soldiers and sailors, and property purchased and improved thereby, is exempt. (Laws, 1887, p. 656.)

A new homestead law, repealing the old one, was passed in 1879, to take effect September 1, 1879. In amount exempt, similar to the Act of 1877. (Laws 1879, pp. 57–61, § 1.)

"The phrase, 'head of a family,' as used in this chapter, includes within its meaning: 1. The husband, when the claimant is a married person. 2. Every person who has residing on the premises with him or her, and under his care and maintenance, either: 1. His or her minor child, or the minor child of his or her deceased wife or husband. 2. A minor brother or sister, or the minor child of a deceased brother or sister. 3. A father, mother, grandfather, or grandmother. 4. The father or mother, grandfather or grandmother of a deceased husband or wife. 5. An unmarried sister, or any other of the relatives mentioned in this section who have attained the age of majority and are unable to take care of or support themselves." (C. S., p. 297, § 15.)

A conveyance or incumbrance of homestead by the owner is of no validity unless the husband and wife, if the owner is married, concur in and sign the same joint instrument.

The homestead is subject to execution on forced sale in satisfaction of judgment obtained: 1. On debts secured by mechanics', laborers', or vendors' liens upon the premises. 2. On debts secured by mortgage upon the premises, executed and acknowledged by both husband and wife, or an unmarried claimant. (C. S. p. 296, § 3.)

Homestead descends discharged from debts. (C. S. p. 297, § 17.)

MARRIED WOMEN.—The property, real or personal, owned by a married woman at the time of marriage, the rents, issues, profits, and proceeds thereof, and any property which comes to her, except only by gift of her husband remains her sole and separate property not subject to the disposal of her husband, nor liable for his debts. She may convey her real estate and contract with reference thereto, in the same manner and with like effect as a married man, and may sue and be sued as if unmarried. May labor or carry on business on her separate account. Her earnings are her sole property. If married out of the State, she may here enjoy all rights as to property there acquired. Husband is not liable for debts contracted by wife before marriage. (C. S. p. 343, §§ 1-7, amended by Laws of 1887, p. 478.)

A married woman is not liable to a personal judgment on her note or other contract unless same was made with reference to her separate property. (C. S. p. 343.)

A married woman may dispose of her own property by will, and may alter or revoke the same in like manner that a person under no disability may do, and subject to the same restrictions. (C. S. p. 226.)

MECHANICS' LIENS.—All persons performing any labor or furnishing any materials or machinery for erecting, repairing, or removing any building or appurtenance by virtue of a contract with the owner or his agent, have a lien to secure payment for the same, on the building or appurtenance and lot on which it stands. The claimant must make an account in writing, under oath, and within four months from the time of doing the work or furnishing the materials, must file the same in the office of the clerk of the county where the work was done, and the lien continues for two years from date of first item.

MORTGAGES.—All the statements under title of *Deeds* apply equally to mortgages of real estate. A wife cannot claim dower as against a lien or a mortgage for purchase money, though not executed by her. (C. S., p. 212, § 4.) Every deed, though absolute, shown by any other instrument in writing to be intended as a security in the nature of a mortgage, is considered a mortgage, and no advantage can be derived from the record thereof by the person for whose benefit it is made, except the defeasance or explanatory instrument be also recorded. Mortgages may be discharged by the mortgagee, his assignee, or personal representative, by entry on the margin of the record, signed by such person in the presence of and attested by the clerk or his deputy; or by such entry made and signed by the clerk, on representation to him of a certificate that such mortgage has been satisfied, signed by the mortgagee, and acknowledged or proved as in case of deeds.

The only foreclosure is by sale on decree of court. (C. S., p. 626, title "Foreclosure.") Mortgage on homestead is good when executed by husband and wife. (C. S., p. 296.) Mortgagee has right to pay taxes and add to his debt. (C. S., p. 626.)

WILLS.—In writing shall be signed by the testator, or by some person in his presence, and by his express direction, and attested and subscribed in his presence by two or more competent witnesses.

Wills shall be recorded in the office of the county clerk of the county where land lies. (C. S., p. 231.)

Married women can make wills same as other persons. (C. S., p. 226.)

NEVADA:

NEVADO, a word of Spanish origin signifying "*White with Snow*" or "*Snow Clad.*" Also called the "SAGE HEN STATE" Composed of territory included in the grant, in 1848, to the United States, by Mexico, under the treaty of Guadalupe Hidalgo. Originally a part of it was included in Utah; as also a part in California known as "the Washoe country." Organized as a Territory by the act of March 2, 1861. Territorial limits enlarged by act of July 14, 1862. Framed a constitution and State government under the enabling acts of March 21, 1864, and May 21, 1864, and admitted as a State by proclamation of President October 31, 1864.

Area: In square miles, 112,090; in acres, 71,737,600.

Counties, 14.

Carson City the capital, in which a branch mint has been established: population in 1880, 4,229. Virginia City the metropolis and principal commercial center, famous for its silver mines: population, 10,917.

Temperature: At Winnemucca, in summer, 66° to 73°; in winter, 30° to 38°. Rainfall light, occurring principally in the spring.

Climate in winter mild with little snow, except on the mountains, but some times in the north the thermometer falls as low as 15° below zero. Weather more moderate in south and east, where frosts are rare. Air invigorating and healthy.

Surface an elevated table land, with an average altitude of 4,500 feet above the sea, broken by parallel ranges of mountains running north and south and attaining a height from 1,000 to 8,000 feet.

Mud lakes and warm springs noticeable among its natural features. Mud lakes, some of them covering an area of 100 square miles, composed of thick alkaline deposits in dry season, and muddy water during rains. Springs contain sulphur or other mineral ingredients, and possess medicinal qualities: temperature varies from 100° F. to boiling heat.

Population in 1880 of State, 62,666.

AGRICULTURAL STATISTICS:

No. of farms in 1880, 1,404; total land in farms, 530,862 acres; improved land in farms, 344,423 acres.

Value of farms in 1880, $5,408,325.

Farm products—crop of 1886: *Indian corn:* Product, 22,000 bushels; area in crop, 855 acres; average yield per acre, 25.7 bushels; value per bushel, 76 cents; total valuation, $16,720. *Wheat:* Product, 72,000 bushels; area in crop, 5,570 acres; average yield per acre, 12.9 bushels; weight per bushel, 59.5 pounds; value per bushel, 75 cents; total valuation, $54,000. *Oats:* Product, 250,000 bushels; area in crop, 7,858 acres; average yield per acre, 31.8 bushels; value per bushel, 50 cents; total valuation, $125,000. *Barley:* Product, 500,000 bushels; area in crop, 24,497 acres; average yield per acre, 20.4 bushels; value per bushel, 68 cents; total valuation, $340,000.

Potatoes: Product, 355,000 bushels; area in crop, 4,733 acres; average yield per acre, 75 bushels; value per bushel, 65 cents; total valuation, $230,750.

Hay: Product, 160,650 tons; area in crop, 148,500 acres; average yield per acre, 1.08 ton; value per ton, $7.40; total valuation, $1,188,810.

Total acreage in above crop, $192,013.

Total valuation of crop, $1,955,280.

Wages of farm labor per month by the year: Without board, $38; with board, $27. Day wages in harvest: Without board, $1.80; with board, $1.37. Day wages of ordinary farm labor: Without board, $1.65; with board, $1.25.

Farm animals (January 1, 1888): *Horses:* Number, 45,547; average price, $51.43; value, $2,342,496. *Mules:* Number, 2,154; average price, $75.49; value, $162,602. *Milch cows:* Number, 18,037; average price, $35; value, $631,295. *Oxen and other cattle:* Number, 323,400; average price, $18; value, $5,819,648. *Hogs:* Number, 21,087; average price, $5.30; value, $111,846.

Sheep: Number, 660,996; average price, $1.91; value, $1,259,660.

Wool clip (1880), 655,012 pounds.

Dairy products: Milk, 149,889 gallons; butter, 335,188 pounds; cheese, 17,429 pounds.

Manufactures (1884):

Number of establishments, 184; capital, $1,323,300; average number of hands employed, 577; total number of hands employed, 577; total annual wages paid, $461,807; value of materials, $1,049,794.

Value of products: Flouring and grist mill, $405,089; foundry and machine shop, $320,955; all other industries, $1,453,582.

Total valuation in 1880 of products of manufactures, $2,179,626.

Mine Statistics (1880):

Precious Metals: Gold: Product, 236,468 ounces; value, $4,888,242. Silver: Product, 9,614,561.3 ounces; value, $12,430,667.

Total value of precious metal product, $17,318,909.

Value of average product of gold and silver: Per capita: gold, $75.51; silver, $199.63; total, $278.14. Per mile: gold, $44.16; silver, 112.29; total, $156.45.

Copper ingots, 734,730 pounds; minor minerals, 50 tons.

Rich in copper and lead; zinc, platinum, nickel, and tin have also been discovered. Borax in large deposits in Esmeralda and Churchill counties.

Ample railroad transportation.

Presidential, congressional, and State elections Tuesday after first Monday in November; biennial sessions of legislature in odd numbered years, meeting first Monday in January; sessions limited to 60 days; senators, 20—representatives, 40; terms of senators, 4 years—of representatives, 2 years.

Electoral college, 3.

Colleges, 1; school age, 6–18; school population, 10,483.

Legal interest rate, 7 per cent.; by contract, any rate.

State Laws in Relation to Deeds, Dower, Descent and Distribution of Property, Married Women, Mechanics' Liens, Mortgages, and Wills.

Deeds.—Every conveyance in writing affecting real estate within this State shall be acknowledged or proved, and certified as follows: The proof or acknowledgment shall be made as follows: If within this State, before some judge or clerk of a court having a seal, or some notary public or justice of the peace. If without the State, but within the United States, before a judge or clerk of a court having a seal, or some notary public or justice of the peace, or by any commissioner appointed by the governor of this State for that purpose; when taken before a justice of the peace, it shall be accompanied by the certificate of the clerk of a court of record of the county having a seal, showing the official character of the justice and the genuineness of his signature. If taken without the United States, it shall be before some judge or clerk of a court of a state, kingdom, or empire having a seal, or a notary public therein, or by a minister, commissioner, or consul of the United States appointed to reside therein. A scroll answers for a seal.

No certificate of any kind is required to the certificate or signature of a notary public wherever taken.

The examination of the wife, where it is necessary that she join in the deed, must be taken separate and apart from her husband, and her execution of the deed must be acknowledged, and *cannot be proved.*

The husband has the absolute control, with full power of disposition of the community property. The like power exists in the wife as to her separate property.

If the grantor is unknown his identity must be proven to the officer by the oath of a credible and competent witness.

Witnesses are not required except where the signature of the contracting party is made by "mark," where one witness will suffice.

TRUST DEEDS—Of real property to secure the payment of money are not authorized by statute. There is no redemption from a sale of property authorized under a trust deed.

DOWER.—There is no law of dower nor tenancy by curtesy in this State.

DESCENT AND DISTRIBUTION.—Subject to payment of debts, and when not otherwise limited by marriage contract, the estate of an intestate descends, and is distributed as follows: 1st. Surviving husband or wife, and one child, or issue of child, equally. 2d. Surviving husband or wife, and more than one child, or one child and issue of deceased child or children, one-third to surviving husband or wife and remainder equally to children and issue of deceased children by right of representation. 3d. If intestate leaves no issue, the estate shall go in equal shares to surviving husband or wife and intestate's father. If he or she leaves no issue, nor husband or wife, it shall go to his or her father. 4th. If there be no issue, nor surviving husband, wife, or father, the estate shall go equally to surviving brothers and sisters (and the issue of deceased brothers or sisters by right of representation); provided, if there be a surviving mother she shall share equally with the brothers and sisters. 5th. If intestate leaves no issue, nor husband, nor wife, nor father, nor brothers or sisters, living at the time of death, whole estate shall go to surviving mother to exclusion of issue of any deceased brother or sister. 6th. If intestate leaves a surviving husband or wife and no issue, and no father, mother, brother, or sister, the whole estate shall go to surviving husband or wife. 7th. If intestate leaves no issue, nor husband or wife, nor father, mother, brother, or sister, the estate shall go to next of kin in equal degree; but when two or more collateral kindred in equal degree claim through different ancestors, those claiming through the nearest ancestors shall be preferred. 8th. Where a person dies leaving several children, or one child and the issue of one or more children, and any such surviving child shall die under age and not having married, all the estate coming to such subsequently deceased child by inheritance from the estate shall descend equally to the other children by the deceased parent, and the issue of children of such parent by right of representation, equally. 9th. If at the death of such subsequently deceased child, dying under age and not having been married, all the other children of his said parent shall be dead, and any of them shall have left issue, the estate that came to such child by inheritance from said parent shall descend to all the issue of other children of the same parent equally when in the same degree, otherwise by right of representation. 10th. When the intestate leaves neither husband, wife, nor kindred, the estate escheats.

Upon the death of the wife the entire community property belongs, without administration, to the surviving husband, except when the deceased wife has been abandoned by the husband without cause, in which case one-half, subject to debts, is subject to her testamentary disposition, and in absence of such disposition goes to her descendants by right of representation. Upon the death of the husband one-half of the community property goes to the surviving wife, and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition goes to his surviving children equally, and in the absence of both of such disposition and surviving children the entire community property belongs without administration to the surviving wife, except as hereinafter provided, subject, however, to all debts contracted by the husband during his life, that were not barred by the statute of limitation at the time of his death. The homestead set apart by the husband and wife before his death, and such other property as may be exempt by law from execution or forced sale, shall be set apart for the use of the widow and minor heirs. In case the wife shall have separated from, and lived apart from, the husband without such cause as would entitle her to a divorce, she shall not be entitled to receive any portion of the community property. Upon the dissolution of the community by the death of the husband the entire community property is equally subject to his debts, the family allowance, and the charges of administration. If the surviving wife pays all indebtedness legally due from said estate, or secures the payment of the same to the satisfaction of the creditors of the said estate, then in such case the community property shall not be subject to administration. (Act defining the rights of husband and wife, Laws, 1873, p. 193, as amended March 2, 1881.)

EXEMPTIONS.—The following property is exempt from execution except upon a judgment for the purchase money or upon a mortgage thereon: chairs, tables, desks, and books to the value of one hundred dollars; necessary household and kitchen furniture, wearing apparel, etc., and provisions and firewood actually provided sufficient for one month, farming utensils, or implements of husbandry, and seed provided for planting within the ensuing six months, not exceeding in value two hundred dollars; two horses, two oxen, or two mules, and two cows, and food for one month for such animals, and one cart or wagon; the tools of a mechanic necessary to his trade; the instruments and libraries of a surgeon, physician, surveyor, or dentist; the professional library of an attorney and counselor, or minister of the gospel; the dwelling of a miner not exceeding in value five hundred dollars, also his tools and appliances necessary to carry on his mining operations, not exceeding in value five hundred dollars; and two horses, two oxen, or two mules, their harness, and food for one month for such animals, when they are necessary in his mining operations; two oxen, two horses, or two mules, and their harness and one cart or wagon, by the use of which a teamster or laborer habitually

earns his living; one horse, harness, and vehicle of a physician or surgeon, or minister of the gospel, and food for such animal for one month. For every livery stable keeper, two horses or mules, with vehicle and harness, provided the whole shall not exceed in value five hundred dollars; one sewing machine in actual use in the debtor's family, not exceeding in value one hundred and fifty dollars; all fire engines and property of fire companies; all arms, etc., required by law to be kept by any person; all public property of State, counties, towns, etc.; a homestead to be selected by the husband or wife, or other head of a family, not exceeding in value five thousand dollars.

A homestead duly recorded cannot be alienated except by the consent of both husband and wife (when that relation exists), which consent must be in writing and duly acknowledged and recorded. The joint deed or conveyance has same effect.

MARRIED WOMEN.—All property of the wife owned by her before marriage, and that acquired afterward by gift, bequest, devise, or descent, shall be her separate property. All property acquired after marriage by either husband or wife, except such as may be acquired by gift, devise, or descent, shall be common property. The husband has absolute control of the common property during the existence of the marriage, and may dispose of it as his own separate estate. The wife may, without consent of her husband, convey, change, incumber, or otherwise in any manner dispose of her separate property. A woman becomes of age at eighteen. The wife must support the husband out of her separate property when he has no separate property and they have no community property, and he from infirmity is not able or competent to support himself.

Upon the death of the husband, the entire community property, after paying the debts, family allowance, and expenses of administration, shall go to the surviving wife.

After marriage the separate property of the wife shall continue liable for her debts contracted before marriage. (Laws, 1861-1865.) A married woman may make contracts in her own name, buy goods, give notes in settlement of purchases, binding her own separate property, real and personal. She may transact business as a *feme sole*, after she is declared a sole trader by order of the court.

MECHANICS' LIENS.—Every person performing labor upon, or furnishing materials of the value of five dollars to be used in constructing, altering, or repairing any building, railroad, tramway, toll-road, canal, water ditch, fence, or any other structure, or who performs labor on any mining claim, to the amount of five dollars, has a lien on the same for his work, labor, or materials, if done at the instance of the owner or his agent. The land occupied by the building, structure, or improvement is subject to the lien. Original contractors within sixty days, and all other persons within thirty days, after the completion of the building, improvement, or structure or alteration of the same, must file in the record office for the county where the land is, a statement of the demand, the owner's name, and description of the property. Suit must be begun within six months after filing the claim.

MORTGAGES.—A mortgage of real property, whatever its terms, shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property, without a foreclosure and sale. (Stat. 1869.) But one form of action for the recovery of any debt or enforcement of any right secured by lien or mortgage upon property, real or personal, which is by action for foreclosure. Discharge may be made either upon the margin of the record of the mortgage or by satisfaction piece duly acknowledged and recorded. Before any satisfaction or discharge of a mortgage can be made the law exacts an oath by the mortgagee, or agent of the mortgagee, to be made before the recorder having custody of the record of the mortgage, that all state and county taxes assessed and levied upon the moneys or debt secured by the mortgage have been paid.

WILLS.—Every person of sound mind, over eighteen years of age, may dispose of his or her property by will, subject to the payment of debts.

A married woman may dispose of her separate estate absolutely, without consent of husband, by will executed as required of other wills; and, with consent of her husband, may dispose of her interest in common property—consent of husband to be in writing annexed to will.

No will (except nuncupative wills) shall be valid unless it be in writing, signed and sealed by the testator, or by his direction, and attested by two witnesses in his presence.

Any child of a testator unprovided for in his will shall share in the estate as though no will had been executed, unless it appear from the will that the omission was intentional. Wills are required to be recorded in the court in which they are admitted to probate.

NEW MEXICO:

The Aztecs were the earliest inhabitants of Mexico, the place of *Mexitli*, the Aztec god of war. Colonized in 1582 by the Spaniards, and ceded in 1848 to the United States by Mexico by treaty of Guadalupe Hidalgo. Organized as a Territory by the act September 9, 1850.

Area: In square miles, 121,201; in acres, 77,568,640.

Counties, 14.

Santa Fe, the capital, is after San Agustine, Fla., the oldest town in the United States.

Altitudes from 3,000 to 8,000 feet.

Temperature: At Santa Fe in winter, 27° to 37°; in summer, 66° to 76°. Rainfall at Fort Marcy, 17 inches.

Population in 1887 estimated at 175,000. Cattle industry extensive and important.

Mountainous portions of land estimated at 30,000,000 acres; the river valleys at 8,000,000 acres; and the mesas at 40,000,000. Very large proportion of land (40,000,000 acres) good agricultural land, averaging in production well with lands of the States East and West. Valleys and hill slopes at altitudes of from 3,000 and 8,000 feet. Some millions of acres in vicinity of mining camps susceptible of successful cultivation of all small grains, vegetables and the hardier fruits. Corn ripens at almost any altitude. Marked progress in farm industry, but the full development of its surprising possibilities dependent on establishment of an extensive system of irrigation. Area of irrigated lands annually increasing. Land cheap.

Climate mild, salubrious, and healthful; unsurpassed in genial equability.

Large areas of land in 1887 brought for the first time under cultivation. Yield good, including in the productions figs, almonds, pomegranates, English walnuts, etc.; all varieties of products common to the temperate zone. The Black Hamburg, the Muscat, the Muscatelle, the flaming Tokay, and many other valuable varieties of grapes, including excellent wine and raisin grapes, produced in astonishing size and profusion and of rare excellence.

Manufacture of wine and raisins and the preparation of canned fruit destined to be staple and profitable industries.

AGRICULTURAL STATISTICS:

No. of farms (1880), 5,053; total land in farms, 631,131 acres; improved land in farms, 237,392 acres.

Total value in 1880 of farms, $5,514,399.

Farm products—crop of 1886: *Indian corn:* Product, 973,000 bushels; area in crop, 48,625 acres; average yield per acre, 20 bushels; value per bushel, 70 cents; total valuation, $681,100. *Wheat:* Product, 921,000 bushels; area in crop, 80,566 acres; average yield per acre, 11.4 bushels; weight per bushel, 59 pounds; value per bushel, 70 cents; total valuation, $644,700. *Oats:* Product, 528,000 bushels; area in crop, 15,087 acres; average yield per acre, 35 bushels; value per bushel, 48 cents; total valuation, $253,440. *Barley:* Product, 63,000 bushels; area in crop, 3,303 acres; average yield per acre, 19.1 bushels; value per bushel, 85 cents; total valuation, $53,550.

Potatoes: Product, 101,000 bushels; area in crop, 1,050 acres; average yield per acre, 96 bushels; value per bushel, $1.10; total valuation, $111,100.

Hay: Product, 24,570 tons; area in crop, 27,300 acres; average yield per acre, .90 ton; value per ton, $14.50; total valuation, $356,256.

Total area in crop, 175,931 acres.

Total valuation of crop, $2,100,155.

Wages of farm labor per month by the year: Without board, $28.75; with board, $18.25. Day wages in harvest: Without board, $1.31; with board, $1. Day wages of ordinary farm labor: Without board, $1.35; with board, $1.

Dairy products (1880): Milk, 10,036 gallons; butter, 44,827 pounds; cheese, 10,501 pounds.

Tobacco: Product (1880), 800 pounds.

Farm animals, January 1, 1888: *Horses:* Number, 40,583; average price, $34.46; value, $1,396,768. *Mules:* Number, 10,803; average price, $61.33; value, $662,504. *Milch cows:* Number, 19,394; average price, $23.75; value, $460,608. *Oxen and other cattle:* Number, 1,257,597; average price, $15.04; value, $18,911,121. *Hogs:* Number, 19,941; average price, $5.64; value, $112,466.

Sheep: Number, 3,623,168; average price, $1.09; value, $3,953,239.

Wool clip (1880), 4,019,188 pounds.

MANUFACTURES (1880):

Number of establishments, 144; capital, $463,275; average number of hands employed, 557; wages paid during year, $218,731; value of materials, $871,352.

Value of products: Flouring and grist mill, $529,171; all other industries, $755,675.

Total value of products of manufactures, $1,284,846.

MINE STATISTICS (1880):

Gold: Product, 2,387.5 ounces; value, $49,354. *Silver:* Product, 303,455 ounces, value, $392,337.

Total value of precious metals, $441,691.

Copper ingots, 4,055 pounds.

Railroad mileage in operation, traversing 12 of its 14 counties, 1,130.

Area of forests, 10,000 square miles, exclusively of pine, and confined to the mountainous regions. Lumber product equal to all domestic demands.

Mining industry valuable and active. Average output of gold and silver for 1886, $3,850,000, in the proportion of one to five. Every description of mineral in great abundance in mountains—iron, lead, zinc, copper, silver, gold, coal, etc. Estimated coal area, 4,000 square miles of 10-foot veins: true bituminous coal.

Assessed valuation of taxable property, $43,151,920.

Territorial and congressional, elections Tuesday after first Monday in November; senators, 12—representatives, 24; sessions of legislature biennial in even numbered years, meeting first Monday in January; limit of sessions 60 days; terms of senators and representatives, 2 years each.

Legal interest rate, 6 per cent.; by contract, 12 per cent.

TERRITORIAL LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—All conveyances of real estate shall be subscribed by the person transferring his title or interest in said real estate, or by his legal agent or attorney. Deeds may be acknowledged *in the Territory* before any judge, justice of the peace, notary public having a seal, or clerk of a court having a seal. *Out of the Territory, but in the United States,* before a commissioner of deeds for the Territory, appointed by the governor, before any United States court, the court of any State or Territory within the United States having a seal, or the clerk or judge of any such court, the genuineness of the signature and official character of such judge to be certified to under seal of his court by the clerk thereof, and also before any notary public having an official seal, or before the clerk of any court of record having a seal.

A married woman may convey her real estate by a conveyance executed by herself and her husband, and the acknowledgment made by her must show that she was personally known to the officer taking the same, or her identity proven by at least two reliable witnesses, and that she was informed of the contents of the conveyance, and that she confessed on an examination independent of, separate and apart from her husband, that she executed such conveyance voluntarily and without compulsion or the illicit influence of her husband.

The examination of the wife separate, apart, and independent of her husb. nd, is necessary, but she need only join with her husband when the property is her own, or when she has an interest therein in her own right independent of her husband.

TRUST DEEDS.—See *Mortgages and Trust Deeds.*

DESCENTS.—The property of intestates descends to the children in equal proportions; if there be no descendants one-half the estate goes to the father and mother of the intestate or the survivor of the two as joint tenants, and the other half to the brothers and sisters and their descendants as tenants in common; if there be neither father nor mother the brothers and sisters take the inheritance as tenants in common, and if there be no brothers nor sisters, nor their descendants, the father and mother take as joint tenants. If there be no person entitled according to the preceding rules the inheritance descends, as follows: First, if the inheritance came by gift, devise, or descent from the paternal line, it goes to the paternal grandparents as joint tenants and to the survivor of them; if neither be living it goes to the uncles and aunts in their paternal line or their descendants; if no such relatives be living, to the next of kin in equal degree of consanguinity among the paternal kindred, and if there be no paternal kindred it goes to the maternal kindred in the same order. Second, if the inheritance came from the maternal line it goes to the maternal kindred in the same order, and if there be no maternal kinred, then to the paternal kindred in the same order. Third, if the estate came otherwise than by gift, devise, or descent it is divided into two equal parts, one of which shall go to the paternal and the other to the maternal kindred in the order above described, and on the failure of either line the other shall take the whole.

Kindred of the half blood inherit equally with those of the whole blood; but if the estate came to the intestate from any ancestor, those only of the blood of such ancestor shall inherit. An estate which came to the intestate by gift or conveyance in consideration of love or affection shall, if the intestate die without descendants, revert to the donor if living, saving to the widower or widow his or her rights. Illegitimate children inherit from their mother as if legitimate, and inherit from the father in the absence of other heirs, provided the father acknowledged such children as his own during his lifetime. These rules of descent are subject to the provisions made in behalf of the surviving husband or wife of the intestate.

If the husband die testate or intestate, leaving a widow, one-third of his real estate descends to her in fee simple free from all demands of creditors; but where the real estate exceeds ten thousand dollars the widow has one-fourth only in any case, and one-fifth only as against creditors. If a widow marry holding real estate in virtue of any previous marriage, and there be children by such previous marriage still living, she cannot, during the subsequent marriage, alienate such real estate, and if she die during such marriage such real estate goes to her children by the marriage in virtue of which such real estate came to her.

If a wife die testate or intestate, leaving a widower, one-third of her real estate descends to him, subject to its proportion of the debts of the wife contracted before marriage. If a husband die intestate, leaving a widow and one child only, his real estate shall descend, one-half to his widow and one-half to his children. If an intestate leave a widow and a child, or children not exceedng two, the personal property is equally divided between the widow and children, but if the number of children exceed two, the widow's share shall not be reduced below one-third of the whole. Personal property of the wife held by her at the time of her marriage, or acquired during coverture by descent, devise, or gift, remains her own property the same as her real estate so remains, and is subject to distribution in the same manner as her real estate. If a husband or wife die intestate, leaving no child, but leaving a father or mother, or either of them, then the property descends, three-fourths to the widow or widower, and one-fourth to the parents jointly or to the survivor of them; but if the whole amount of property does not exceed one thousand dollars, the whole goes to the widow or widower. If there are neither children nor parents of intestate, the whole of the property goes to the widow or widower. A surviving wife is entitled to one-third of all real estate owned by her husband at any time during the marriage, in the conveyance of which she may not have joined; and she and her minor children are allowed to occupy the ordinary dwelling house of the family and the fields adjacent, not exceeding forty acres, free of rent for one year. In all actions by or against a married woman, her husband shall be joined as a party.

DOWER—Is abolished.

EXEMPTIONS.—The head of every family may hold the following property exempt from execution, attachment, or sale: The wearing apparel of such person or family; the beds, bedsteads, and bedding necessary for the use of the same; one cooking-stove and pipe; one stove and pipe used for warming the dwelling; fuel sufficient for sixty days; one cow, or, if the debtor owns no cow, household furniture not exceeding forty dollars in value; two swine or the pork therefrom, or, if the debtor owns no swine, household furniture not exceeding fifteen dollars in value; six sheep, the wool shorn from them and the cloth or other articles manufactured therefrom, or, in lieu thereof, household furniture not exceeding twenty dollars in value; sufficient food for such animals for sixty days; bibles, hymn-books, psalm-books, testaments, school and miscellaneous books used in the family, and all family pictures; provisions provided and designed for the use of such person or family, not exceeding fifty dollars in value, and other articles of household and kitchen furniture, or either, necessary for such person or family, not exceeding two hundred dollars in value; one sewing-machine, one knitting-machine, one gun or pistol, and the tools and implements of the debtor necessary for carrying on his trade or business, not exceeding one hundred and fifty dollars in value; the personal earnings of the debtor and the personal earnings of his minor child or children for three months, when necessary to the support of such debtor or family; all articles, specimens in cabinets of natural history or science, except such as may be intended for exhibition for pecuniary gain; if engaged in agriculture, two horses or one yoke of cattle

with the necessary gearing for the same, and one wagon; if a doctor, one horse, one saddle and bridle, professional books, medicines and instruments, not exceeding one hundred dollars in value; if a lawyer, professional books not exceeding five hundred dollars in value. Every person engaged in the business of draying, or carrying property from place to place with one horse and wagon, shall hold one horse, harness, dray, or wagon also exempt from execution. Every unmarried woman may hold exempt from execution, etc., wearing apparel not exceeding in value one hundred and fifty dollars; one sewing-machine, one knitting-machine; if engaged in teaching music, one piano or organ; a bible, hymn-book, psalm-book, album, and any other books not exceeding in value fifty dollars. Any beneficiary fund, not exceeding five thousand dollars, set apart or paid by any benevolent association to the family of a deceased member, or to any member of such family, shall not be liable for the debts of such deceased member. The regalia, insignia of office, journals of proceedings, account books, and the private work belonging to any benevolent society, is exempt from seizure or sale to satisfy any judgment against such society. All property used or kept to be used by any municipal corporation or fire company for extinguishing fire shall be exempt from execution and sale. Husband and wife, widow or widower living with an unmarried daughter, or unmarried minor son, may hold exempt from sale or judgment a family homestead not exceeding one thousand dollars in value. Any head of a family not the owner of a homestead may hold exempt from levy and sale real or personal property not exceeding five hundred dollars in value in addition to the chattel property otherwise by law exempted.

MARRIED WOMEN—Are permitted to acquire and hold property, and their contracts are valid and enforceable same as though unmarried. They, however, cannot convey real estate, except the husband joins. A wife is entitled to half the property acquired by herself and husband while married.

MECHANICS' LIENS.—Any person furnishing labor or materials for the erection or repair of a building, has a lien thereon and on the land on which it stands. Original contractor must file in office of county clerk a statement of account, under oath, and description of property, within ninety days after completion of contract. Sub-contractors must file similar statement within sixty days after work done or material furnished. Suit must be brought within one year from time of payment falling due.

MORTGAGES AND TRUST DEEDS.—There is no statutory provision, except as to the execution and recording, which are the same as stated for the execution and record of deeds of conveyance.

WILLS.—Persons of either sex may make a will, except the following: 1st. Males not having completed fourteen years, and females not having completed twelve. 2d. Insane persons or persons of unsound mind, while in that condition. 3d. A prodigal who has been prohibited from the free administration of his property by a court of competent jurisdiction. 4th. The deaf and dumb by birth, unless they can write it themselves.

Wills may be either written or verbal. When in writing they shall be signed by the testator, or if he be unable to write he may request some reliable person to sign for him; and the will shall be attested by three or more able and qualified witnesses, who shall have the same qualifications as witesses before a court of law.

Verbal wills must be attested by the same number of witnesses required for the written ones, and two witnesses must testify that the testator was at the time of making his will in possession of a sound mind and entire judgment. The witnesses must all be present, see and hear the testator speak, and each and every one of them shall understand clearly and distinctly every part of the will.

OREGON:

Or OREGAN, signifying "*River of the West;*" but according to others the name is derived from the Sp. *Oregano*, "*Wild Majoram,*" which grows abundantly on the Pacific coast. Columbia river discovered in May, 1792, by Captain Gray of Boston; explored in 1804-'6 by Lewis and Clarke; settled in 1811 at Astoria; whatever Spanish title acquired by treaty in 1819, and its northern boundary settled in 1846 by the treaty of limits with Great Britain. Organized as a Territory by the act of August 14, 1848, and admitted February 14, 1859, as a State.

Area: In square miles, 95,274; in acres, 60,975,360. Ocean coast line, 300 miles; frontage on Columbia river, 300 miles. Divided into eastern and western Oregon.

Counties, 29.

Salem, situated on the Willamette river, is the capital; here are located all State institutions—the State house, the insane and orphan asylums, the blind and deaf and dumb schools, and the State peni-

tentiary: population, over 8,000. Portland the metropolis: population, 33,400. Ports of entry: Coos Bay, Portland and Astoria.

Climate mild and uniform and healthy. Rainy season begins about October 15 and ends May 1. From December to March rains generally copious. Occasional showers, fogs, and dew during dry season. Snow rarely falls along the coast or in the interior valleys. Severe gales unknown. No blizzards nor cyclones nor tornadoes; no cold winters nor hot summers; no drouths nor floods; no failures of crops; no alkali nor sandy lands; no grasshoppers nor chintz nor potato bugs, etc.

Willamette is the principal valley of the State, and constitutes its wealthiest portion. Drained by the Willamette river, navigable for 125 miles from its mouth. Average width of valley, exclusive of mountain slopes, 60 miles; length, 130 miles; area about 7,800 miles, or 4,992,000 acres. All its other valleys also very fertile.

Temperature: At East Portland, in winter, 28° to 60°; in summer, 50° to 97°. Mean annual temperature, 52°.7. Rainfall at Eola, 34.92 inches; at East Portland, 56.30 inches; at The Dalles, 12.14 inches. Snowfall at Albany, total amount melted winter 1886–'87, 29 inches.

Population in 1880 of State, 174,768.

AGRICULTURAL STATISTICS:

No. of farms (1880), 16,217; total land in farms, 4,214,712 acres; improved land in farms, 2,198,645 acres.

Total value of farms, $56,908,575.

Area of land, in 1885, under cultivation, 1,243,904 acres.

Average price of improved land, $10 to $50 per acre; unimproved land, $6 to $20 per acre.

Farm products—crop of 1886: *Indian corn*: Product, 178,000 bushels; area in crop, 6,673 acres; average yield per acre, 26.7 bushels; value per bushel, 75 cents; total valuation, $136,500. *Wheat:* Product, 11,133,000 bushels; area in crop, 884,640 acres; average yield per acre, 12.6 bushels; weight per bushel, 59.7 pounds; value per bushel, 68 cents; total valuation, $7,570,440. *Rye:* Product, 22,000 bushels; area in crop, 1,365 acres; average yield per acre, 16.1 bushels; value per bushel, 75 cents; total valuation $16,500. *Oats:* Product, 5,102,000 bushels; area in crop, 199,199 acres; average yield per acre, 25.6 bushels; value per bushel, 42 cents; total valuation, $2,142,840. *Barley:* Product, 941,000 bushels; area in crop, 34,845 acres; average yield per acre, 27 bushels; value per bushel, 52 cents; total valuation, $489,320. *Buckwheat:* Product, 9,000 bushels; area in crop, 673 acres; average yield per acre, 13.4 bushels; value per bushel, 75 cents; total valuation, $6,750.

Potatoes: Product, 1,037,000 bushels; area in crop, 12,965 acres; average yield per acre, 80 bushels; value per bushel, 62 cents; total valuation, $642,940.

Hay: Product, 477,488 tons; area in crop, 374,850 acres; average yield per acre, 1.27 ton; value per ton, $8.75; total valuation, $4,178,026.

Wages of farm labor per month by the year: Without board, $32.56; with board, $23. Day wages in harvest: Without board, $1.94; with board, $1.45. Day wages of ordinary farm labor: Without board, $1.35; with board, 98 cents.

Wheat noted for superiority of its flour, often reaching 65 pounds per bushel.

Dairy products, (State census of 1885): Butter and cheese, 3,287,923 pounds.

Orchard products, (1885): Apples, 2,005,373 bushels; plums and prunes, 150,306 bushels. Pears produced in great variety, both early and late. Cherry

trees grow to be two feet in diameter, and a single tree sometimes yields 1,000 pounds of fruit.

Farm animals, January 1, 1888: *Horses:* Number, 177,842; average price, $49.90; value, $8,874,804. *Mules:* Number, 3,155; average price, $68.38; value, $215,739. *Milch cows:* Number, 78,997; average price, $29.69; value, $2,338,311. *Oxen and other cattle:* Number, 598,218; average price, $20.35; value, $12,172,122. *Hogs:* Number, 220,723; average price, $3.01; value, $664,819

Sheep: Number 2,930,123; average price, $1.70; value, $4,987,069.

Natural grasses eminently suitable for sheep pasturage.

Wool clip (State census of 1885), 9,451,701 pounds of fine quality.

Oregon wool quoted in Chicago market at from 18 to 26 cents per pound.

MANUFACTURES (1880):

Number of establishments, 1,080; capital, $6,312,056; average number of hands employed, 3,473; annual wages paid, $1,667,046; value of materials, $6,954,436.

Value of products: Flouring and grist mill, $3,475,531; sawed lumber, $2,030,463; woolen goods, $549,030; saddlery and harness, $385,350; foundry and machine shop, $352,300; tin, copper, and sheet ironware, $311,650; slaughtering and meat packing, $264,712; sash, door, and blinds, $253,692; all other industries, $3,308,504.

Total value of products of manufactures, $10,931,232.

Extensive and valuable forests of pines, spruces, and firs. Timber in quality very fine. Pines often 150 to 175 feet in height; spruces 100 feet, and firs 200 feet. Also cedar, oak, yew, ash, maple, cottonwood, myrtle, laurel, dogwood, etc.

Lumber product (1885), 169,135,726 feet.

Fisheries: Great salmon industry growing in importance.

Value of pack in 1887, $2,500,000; amount disbursed by canners, $1,700,000.

Total pack of Pacific coast, 987,000 cases.

Valuable mineral resources: Gold in Baker, Clackamas, Coos, Crook, Curry, Douglas, Grant, Jackson, Josephine, Lane, Linn, Marion, Tillamook, Umatilla, Union, and Wallowa counties.

Coal in Benton, Clackamas, Clatsop, Columbia, Coos, Douglas, Grant, Jackson, Tillamook, Umatilla, and other counties.

Copper in Baker, Clackamas, Douglas, Josephine, Linn, and Wallowa counties.

Iron throughout State.

Silver, quicksilver, platinum, iridium, brick and potters' clays, etc.

Wheat, flour, salmon, and lumber the principal exports.

SCHOOL STATISTICS (1887):

No. of districts, 1,491; average number days school per year, 100; average monthly salary of male teacher, $45.78; average monthly salary of female teacher, $34.79; whole amount paid teachers per annum, $413,515.36; total value of school property, $1,300,500. School age, 4–20 years.

Normal schools, 4; institute for deaf and dumb, 1; school for blind, 1.

Medical college, 1.

Private academies, 16; colleges, 8; seminary, 1; schools, 4; university, 1; other institutions, 5.

Orphan asylums; asylum for treatment of the insane.

Gross value of all property, $113,962,652.

Railroads intersect State in all directions, furnishing ample transportation facilities.

Governor and State officers elected quadrennially; legislature every 2 years; senators, 30—representatives, 60; sessions of legislature biennial in odd-numbered years, meeting first Monday in January; limit of session 40 days; terms of senators, 4 years—of representatives, 2 years.

Electoral college, 3.

Legal interest rate, 8 per cent.; by contract, 10 per cent.; usury forfeits principal and interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Deeds or other instruments creating any estate in lands, must be signed and sealed, and to be entitled to record must be attested by two witnesses and acknowledged and certified. The seal may be made by a scroll of the pen, or wax, wafer, or paper. The proof or acknowledgment may be taken before any judge of the supreme court, county judge, justice of the peace or notary public within the State, or if taken in any other State or Territory before any judge of a court of record, justice of the peace, notary public or other officer there authorized, or before a commissioner of deeds appointed by the Governor of this State. If such deed be executed in any other State or Territory, unless acknowledged before such commissioner, such deed shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district within which such acknowledgment was taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was at the date thereof such officer as he is therein represented to be, and that he believes the signature of such person subscribed thereto to be genuine; and that the deed is executed and acknowledged according to the law of such State, Territory or district.

If such deed be executed in any foreign country, it may be executed according to the laws thereof and acknowledged before any notary public, minister plenipotentiary, minister extraordinary, minister resident, *charge d'affaires*, commissioner or consul of the United States appointed to reside therein.

TRUST DEEDS.—No law in this State relating to trust deeds.

DESCENT AND DISTRIBUTION OF PROPERTY.—*Real property* descends as follows: 1st. In equal shares to his children, and to the issue of any deceased child by right of representation; and if there be no child of the intestate living at the time of his death, such real property shall descend to all his other lineal descendants; and if all such descendants are in the same degree of kindred to the intestate, they shall take such real property equally; or otherwise, they shall take according to the right of representation. 2d. If the intestate shall leave no lineal descendants, such real property shall descend to his wife, and if the intestate leaves no wife, then such real property shall descend to his father. 3d. If the intestate shall leave no lineal deseendants, neither wife nor father, such real property shall descend, in equal shares, to his brothers and sisters, and to the issue of any deceased brother or sister by right of representation; but if the intestate shall leave a mother also, she shall take an equal share with such brothers and sisters. 4th. If the intestate shall leave no lineal descendants, neither wife nor father, brother or sister living at his death, such real property shall descend to his mother, to the exclusion of the issue of his deceased brothers or sisters. 5th. If the intestate shall leave no lineal descendants, neither wife nor father, mother, brother, or sister, such real property shall descend to his next of kin, in equal degree, excepting that, when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through a more remote ancestor. (Hill's Code, § 3098.)

Personal property descends as follows: If the intestate shall leave a husband, such husband shall be entitled to receive the whole of the personal property. If the intestate leave a widow and issue, such widow shall be entitled to receive one-half of the personal property; but if the intestate leave a widow and no issue, such widow shall be entitled to receive the whole of the personal property. (Hill's Code, § 3099.)

DOWER.—A widow is entitled to one-third part, during her natural life, of all lands whereof her husband was seized of an estate of inheritauce at any time during coverture, unless she is lawfully barred.

EXEMPTIONS.—The following property shall be exempt from execution, if selected and reserved by the judgment debtor or his agent at the time of the levy, or as soon thereafter before sale thereof, as the same shall be known to him, and not otherwise: Books, pictures, and musical instruments owned by any person, to the value of seventy-five dollars; necessary wearing apparel owned by any person, to the value of one hundred dollars, and if such person be a householder, for each member of his family to the value of fifty dollars; the tools, implements, apparatus, team, vehicle, harness, or library necessary to enable any person to carry on the trade, occupation, or profession by which such person habitually earns his living, to the value of four hundred dollars; also sufficient quantity of food to support such team, if any, for sixty days. The word "team," in this subdivision, shall not be construed to include more than one yoke of oxen, or pair of horses or mules, as the case may be.

The following property, if owned by a householder and in actual use, or kept for use, by and for his family, or when being removed from one habitation to another on a change of residence: Ten sheep, with one year's fleece, or the yarn or cloth manufactured therefrom, two cows, and five swine; household goods, furniture, and utensils, to the value of three hundred dollars; also, food sufficient to support such animals, if any, for three months, and provisions actually provided for family use, and necessary for the support of such householder and family for six months; the seat or pew occupied by a householder, or his family, in a place of public worship; all property of the State, or any county, incorporated city, town, or village therein, or of any other public or municipal corporation of like character.

No article of property, or if the same has been sold or exchanged, then neither the proceeds of such sale or the article received in exchange therefor, shall be exempt from execution, issued on a judgment recovered for its price.

Every white male citizen of this State above the age of sixteen years shall be entitled to have and keep, for his own use and defense, the following fire arms, to wit: either or any one of the following named guns, and one revovling pistol: a rifle, shot gun (double or single barrel), yager, or musket; the same to be exempted from execution in all cases, under the laws of Oregon. (Hill's Code, § 3171.)

MARRIED WOMEN.—The property and pecuniary rights of every married woman at the time of her marriage, or afterwards acquired by gift, devise, or inheritance, shall not be subject to the debts or contracts of her husband, and she may manage, sell, convey, or devise the same by will to the same extent and in the same manner that her husband can property belonging to him.

A married woman is alone responsible in damages for injuries committed by her, except in case where her husband would be responsible with her provided marriage did not exist.

A conveyance, transfer, or lien executed by either husband or wife to or in favor of the other shall be valid to the same extent as between other persons.

A wife may receive the wages of her labor and bring action therefor in her own name, and she may prosecute and defend all actions at law or in equity for the preservation and protection of her rights and property. Neither husband nor wife is liable for the debts or liabilities of the other incurred before marriage. They are not liable for the separate debts of each other. Contracts may be made by a wife and the same enforced by or against her in the same manner as if she were unmarried, and she may transact business as a *feme sole*.

MECHANICS' LIENS.—Any person who, by virtue of a contract with the owner or his agent, performs any labor, or furnishes any materials, engines, or machinery for the construction or repair of any building or structure, has a lien on the building and lot on which it stands for his pay. An original contractor must file in the office of the county clerk, within sixty days after the completion of the building or repairs, a notice of his intention to claim a lien specifying the amount due, and the property. A laborer or subcontractor must file notice within thirty days. The lien will not be binding for more than six months after such filing, unless suit is brought. Mechanics' and artisans have a lien on personal property made or repaired by them, and if their charges are not paid in three months, they may sell the property.

MORTGAGES.—Mortgages are executed in the same manner as deeds. An absolute conveyance, if intended as security, will be considered a mortgage.

Any mortgage may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage, in the presence of the county clerk, or his deputy, who shall subscribe the same as a witness; and such entry shall have the same effect as a deed of release duly acknowledged and recorded. (Hill's Code, § 3031.)

WILLS.—Every person of twenty-one years of age and upwards, of sound mind, may, by last will, devise all his estate, real and personal, saving to the widow her dower. Every person over the age of eighteen years, of sound mind, may, by last will, dispose of his goods and chattels. A married woman may, by will, dispose of any real estate held in her own right, subject to any rights which her husband may have as tenant by the curtesy.

Every will shall be in writing signed by the testator, or by some other person under his direction, in his presence, and shall be attested by two or more competent witnesses, subscribing their names to the will, in the presence of the testator.

UTAH:

A name derived from that of the Ute or Utah tribe of Indians, and signifies "*Dwellers in the Mountains.*" Called also "*Deseret*" and "the SWITZERLAND OF AMERICA." Capt. Bonneville, as early as 1825, and Lieut. John C. Fremont 1842-'43, while yet the sovereignty was in Mexico, penetrated as far as Salt lake. Settled by the Mormons, in 1847, under Brigham Young. Ceded to the United States by Mexico in 1848 by the treaty of Guadalupe Hidalgo, and organized as a Territory by the act of September 9, 1850.

Area: In square miles, 84,476; in acres, 54,064,640. Intersected from north to south by the Wasatch mountains. Maximum length, 325 miles; breadth 300 miles. Altitude of valleys from 4,000 to 6,000 feet above the sea—of mountains from 6,000 to 13,000 feet. Lands rich in phosphates and very productive.

Counties, 24.

Temperature: At Salt Lake city, in winter, 29° to 40°; in summer, 69° to 77°. Rainfall, 24 inches.

Estimated population in 1888, 211,555. Chiefly British and Scandinavian.

With every variety of climate it is generally salubrious and agreeable, not given to extremes, and is healthy.

Salt Lake basin 200 miles in length by 40 or 50 in width, dotted with settlements. Altitude 4,500 feet above the sea. Climate healthy and agreeable. Scenery fine: Warm thermal soda and sulphur springs easily reached by rail or carriage; an attractive resort for tourists seeking health or pleasure. Many semi-tropical plants grow well in this basin and in some of the valleys.

Great Salt lake, a briny inland sea, covers an area of from 3,000 to 4,000 square miles; 22 per cent. salt.

Salt Lake city the capital and most important city: population in 1880, 30,768. Ogden city: population, 11,315. Provo city: population, 3,482.

San Pete and Cache valleys fine grain growing sections.

Valleys for the farmer, the gardener, and fruit grower; foot hill slopes and river terraces for the stock and sheep raiser, and mountains for the miner.

Agricultural Statistics:

No. of farms (1880), 9,452; total land in farms, 655,524 acres; improved land in farms, 416,105 acres.

Total value of farms, $14,015,178.

Farm products—crop of 1886: *Indian corn:* Product, 267,000 bushels; area in crop, 13,330 acres; average yield per acre, 20 bushels; value per bushel, 60 cents; total valuation, $160,200. *Wheat:* Product, 1,541,000 bushels; area in crop, 101,704 acres; average yield per acre, 15.2 bushels; weight per bushel, 59.5 pounds; value per bushel, 62 cents; total valuation, $955,420. *Rye:* Product, 32,000 bushels; area in crop, 2,264 acres; average yield per acre, 14.1 bushels; value per bushel, 55 cents; total valuation, $17,600. *Oats:* Product, 858,000 bushels; area in crop, 28,794 acres; average yield per acre, 29.8 bushels; value per bushel, 40 cents; total valuation, $343,200. *Barley:* Product, 470,000 bushels; area in crop, 20,417 acres; average yield per acre, 23 bushels; value per bushel, 49 cents; total valuation, $230,300.

Potatoes: Product, 978,000 bushels; area in crop, 11,509 acres; average yield per acre, 85 bushels; value per bushel, 36 cents; total valuation, $352,080.

Hay: Product, 159,120 tons; area in crop, 124,848 acres; average yield per acres, 1.27 ton; value per ton $7; total valuation, $1,113,840.

Total area in crop, 302,866 acres.

Total valuation of crop, $3,172,640.

Wages of farm labor per month by the year: Without board, $33.50; with board, $22.30. Day wages in harvest: Without board, $1.72; with board, $1.30. Day wages of ordinary farm labor: Without board, $1.42; with board, $1.10.

Grain and hay crops of 1887 valued at $6,419,000. Wheat crop estimated at 3,250,000 bushels. Barley at 600,000 bushels. Garden products at $1,550,000. Orchards prolific and fruits of high caste—peaches, apricots, pears, apples, plums, and other fruits. Dried fruits excellent in quality, of wide reputation and command fancy prices throughout the United States.

Honey of the richest flavor, 200,000 pounds, valued at $16,000.

Farm animals, January 1, 1888: *Horses:* Number, 120,692; average price, $40.65; value, $4,906,026. *Mules:* Number, 3,686; average price, $54.71; value, $201,668. *Milch cows:* Number, 42,878; average price, $25.25; value, $1,259,420. *Oxen and other cattle:* Number, 435,000; average price, $16.76; value, $7,292,733. *Hogs:* Number, 40,118; average price, $7.15; value, $286,486. *Sheep:* Number, 1,335,000; average price, $1.94; value, $2,594,172.

Estimated wool clip of 1888, 10,000,000 pounds, at an average price of 13 cents.

Cattle, horses, and sheep estimated at 3,000,000 herded in 1887. Value per head increased. Aggregate value estimated at $28,000,000. Swine 100,000, estimated at $500,000. Grasses rich and abundant.

Wool clip, 9,000,000 pounds, valued at $1,710,000. Hides, pelts, furs, etc. valued at $135,000

Shipments of poultry valued at $20,000.

Mineral resources a wonderful laboratory on a gigantic scale. The precious metals, copper, lead, ashphalt, nitre, fire clay, salt, coal, etc., in the greatest abundance.

Gold and silver and other metal products in 1887 valued at $10,604,631. Coal output in 1886, 322,878 tons.

Total output of mines from 1871 to 1887, both inclusive: *Gold:* Product, 148,316 ounces; price per ounce, $20.67; value, $3,065,692.72. *Silver:* Product, 65,226,753 fine ounces; value, $73,201,966.51. *Lead:* Product, 689,630,705 pounds; value, $33,799,599.17. *Copper:* Product, 19,044,995 pounds; value, $3,003,889.21.

Total valuation of output, $113,071,147.61.

Total of mine dividends paid in 1887, $1,257,500.

MANUFACTURES (1880):

No. of establishments, 640; capital, $2,656,657, average number hands employed, 2,495; annual wages paid, $858,863; value of materials, $2,561,737.

Value of products: Flouring and grist mill, $1,364,619; sawed lumber, $375,164; woolen goods, $279,424. All other industries, $2,305,785.

Total value in 1880 of products of manufactures, $4,324,992.

Manufacturing industries steadily increasing.

Manufactured products in 1887 equaled in value $8,726,500, comprising those of wood and metal workers, soap factory, foundries and boiler works, breweries, tanneries, clothing, flouring and paper mills, silk and woolen manufactures, boots and shoes, etc.

Capital invested, $4,468,350; persons employed, 3,573.

Value of lumber product, $500,000.

Commercial traffic valued at $120,000,000.

Salt annually sold, 30,000 tons, at an average price of $3 for coarse crude, and $8 for refined table; employs 150 men, and produces a net revenue per annum of $150,000.

Railroad mileage, 1,140.

Railroad traffic, both passenger and freight, in 1888, shows an increase over the previous year of at least 25 per cent.

Public school system established.

Annual territorial elections first Monday in August; congressional elections Tuesday after first Monday in November; senators, 12—representatives, 24; biennial sessions of legislature in odd-numbered years, meeting second Monday in January; limit of session, 60 days; terms of senators and representatives, 2 years.

Legal rate of interest, 10 per cent.; by contract, any rate.

TERRITORIAL LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS—Must be attested by one credible witness and acknowledged or proved to entitle the same to be recorded. To operate as notice to third persons, a deed must be recorded in the recorder's office of the proper county; but it is binding between the parties, and as to those who have actual notice, without record. An unrecorded deed is void as against a subsequent purchaser in good faith and for a valuable consideration, when such subsequent purchaser shall first have his deed duly recorded.

A deed purporting to convey an absolute or fee simple estate conveys all subsequently acquired interests of the grantor. Possession is not requisite to a conveyance of claim of title to real estate. The acknowledgment or proof must be taken, if within the Territory, before a judge or clerk of a court having a seal, or a notary or county recorder, or justice of the peace of the county where the real estate is situated. Without the Territory and within the United States, by a judge or clerk of a United States court, or by a judge or clerk of a court of record of a State or Territory, or by a notary, or by a commissioner of deeds for this Territory. Without the United States, by a judge or clerk of a court having a seal, or a notary, or a minister, commissioner, or consul of the United States appointed to reside in the country where the deed is executed.

TRUST DEEDS—Are in common use.

DISTRIBUTION AND DESCENT.—After the payment of the expenses of the last sickness and funeral, allowance for the support of widow and minor children, and payment of debts due from the estate, the personal estate shall be distributed in kind, if practicable, in the same manner as real estate. The property, both real and personal, of one who dies intestate, passes to his heirs, subject to the control of the probate court, and to the possession of any administrator appointed by that court.

If the decedent was the head of a family, the property, real and personal, exempt from execution, passes to the surviving family in equal shares, and is not subject to the payment of the debts of the decedent, nor to any bequest, nor to the payment of any legacy; and if the appraisement shows the estate to be not over fifteen hundred dollars in value, it shall all be assigned to the family, and no further administration allowed.

If the decedent leaves a husband or a wife and only one child, or the issue of only one child, the estate, except as provided above, passses, one-third to the surviving husband or wife for life, the remainder and the other two-thirds to such child, or the issue of such child, by right of representation. If there are more than one child living, or one child and the issue of a deceased child or children, the estate goes, one-fourth to the surviving husband or wife for life, and the remainder and the other three-fourths to the surviving children and the issue of any deceased child, by right of representation. If there is no child of the decedent, but there is issue of a deceased child or children, the remainder goes to all the lineal descendants of the decedent; and if they are in the same degree of kindred to the decedent they share equally, otherwise they take by right of representation.

If the decedent leaves a husband or wife and no issue, one-half of the estate goes to his father and mother in equal shares, and if either be dead, all of said estate goes to the other, and the other half to the surviving husband or wife. Next in succession come the brothers and sisters of the decedent. However, if the decedent leaves no issue, nor husband or wife, the estate goes to the father and mother.

If the decedent leaves a husband or wife, and no issue, and no father or mother or brother or sister, the estate goes to the surviving husband or wife.

Every illegitimate child is an heir to its mother. It is also heir to its father when acknowledged by him, if born before the 9th day of February, 1888, but not afterwards.

All of the property is liable to pay debts.

DOWER—Was abolished by statute, but has been restored by the Edmunds-Tucker act.

EXEMPTIONS.—Except on a judgment for the purchase price, or upon a judgment or foreclosue of a mortgage or a mechanic's or laborer's lien thereon, the following property, to wit: 1st. Chairs, tables, desks, and books, of the value of two hundred dollars. 2d. Necessary household furniture, etc., of the value of three hundred dollars, paintings made by a member of the family, provisions on hand, for three months, two cows with their sucking calves, and two hogs and all sucking pigs. 3d. Farming implements, of the value of three hundred dollars; two oxen, horses or mules, and harness, and food for animals for sixty days; a cart or wagon; seed, grain, or vegetables, not exceeding in value two hundred dollars. 4th. Tools and implements of a mechanic or artisan, not exceeding in value five hundred dollars; the seal and records of a notary public; the instruments and chests of a surgeon, physician, surveyor, and dentist, with their libraries, and the law libraries and the office furniture of attorneys and judges, and libraries of ministers. 5th. The cabin of a miner, not exceeding five hundred dollars in value; also his tools and appliances, not exceeding in value two hundred dollars. 6th. Two oxen, or horses or mules, and harness, and cart or wagon, or dray or truck, by which a cartman, drayman, huckster, teamster, or other laborer habitually earns his living; and

one horse, harness, and vehicle of a physician, surgeon, or minister, with feed for the horse for three months. 7th. One-half the debtor's earnings for personal services in sixty days, if necessary for his family residing in this Territory, supported wholly or in part by his labors. 8th. All moneys, benefits, privileges, or immunities accruing in any manner from a life insurance on the debtor's life, when the annual premiums do not exceed five hundred dollars. 9th. All arms, ammunition, uniforms, and accoutrements required by law to be kept. 10th. Court-houses and all public edifices and grounds, churches and grounds, school houses, cemeteries, and public squares. 11th. To a head of a family, the homestead, to be selected by the debtor, not exceeding one thousand dollars in value, and the further sum of five hundred dollars to his wife, and two hundred and fifty dollars for each other member of his family.

MARRIED WOMEN.—All property owned by either spouse before marriage, and that acquired afterwards by gift, bequest, devise, descent, or purchase, is the separate property of such spouse. And either spouse may sue or be sued at law.

A married woman may carry on business with or respecting her separate property, and her promissory note or other form of contract made in relation to such business is binding on her.

MECHANICS' LIENS.—Any person, who by virtue of a contract with the owner, furnishes labor or materials in the construction or improvement of any building or structure, or in working a mine, has a lien thereon, provided he files with the county recorder, within ten days after the completion of his contract if an original contractor, or thirty days after the completion of the building, etc., if a sub-contractor, a claim, under oath, containing a statement of his demand after deducting all credits, name of owner, if known, and employer, the terms of the contract, and description of property. Suit for foreclosure must be commenced within ninety days after filing.

MORTGAGES—Are executed in the same manner as deeds. The first recorded has preference unless junior mortgagee has actual notice.

There is but one form of action for the recovery of any debt or the enforcement of any right secured by lien or mortgage upon real estate or personal property, namely, by foreclosure and sale.

The widow cannot claim dower as against the mortgagee or his vendors, except for mortgages made since February 19, 1887, which she has not also executed.

WILLS.—Any person of the age of eighteen years and of sound mind may dispose of his or her property, personal and real, by will. A will must be in writing, subscribed by the testator, and attested by at least two witnesses in the presence of the testator and of each other. All wills executed according to the law of the State or country where made may be admitted to probate here.

Married women may make wills as if *sole*.

WASHINGTON:

Formed originally a part of the Territory of Oregon. First settlement by white Americans in 1845 at Tumwater. Fur-trading posts had previously been established. Separated from Oregon and organized as a Territory by the act of March 2, 1853. (See OREGON.)

Area: In square miles, 69,994; in acres, 796,160.

Counties, 33.

Temperature: At Port Angeles (on Straits of Juan de Fuca), average monthly mean, from July to December, 1887, 48°; from January to June, 44.2°. Rainfall, 84.25 inches. At Olympia, 1887, mean, for spring, 49°; mean, for summer, 60°; mean, for winter, 38°. Rainfall and melted snow, 61.78 inches. At Portland, average monthly mean from July to December, 1887, 55.16°; from January to June, 49.9°. Rainfall, 41.69 inches.

Two climates, eastern and western. The former has too much heat in summer, and brief but severe frosts in winter. The latter is mild in both seasons. Cyclones unknown.

Olympia is the capital: population in 1880, 1,232. Seattle: population, 3,533. Walla-Walla: population, 3,588. Vancouver city: population, 1,722. Steilacoom city: population, 1,098.

Puget sound (the "Mediterranean of the Pacific"), a great deep inland sea, extending from the ocean nearly 200 miles over a surface of about 2,000 square miles, with a shore line of about 1,154 miles

indented with numerous bays, harbors, and inlets, and numerous islands inhabited by thriving farmers, lumbermen, herdsmen, and persons engaged in quarrying lime and building stone, with every facility indeed for a vast commercial and military marine. Thriving towns and cities are situated on its shores, bidding for the commerce of the world. Shipbuilding a profitable and growing industry. Lumber fleet, both sailing and steam, large.

Value of exports during year ended June 30, 1887, $1,769,299; of imports, $348,277.

Estimated population in 1888, 167,982.

AGRICULTURAL STATISTICS:

Number of farms (1880), 6,529; total land in farms, 1,409,421 acres; improved land in farms, 484,346 acres.

Total value in 1880 of farms, $13,844,224.

Farm products—crop of 1886: *Indian corn:* Product, 88,000 bushels; area in crop, 3,375 acres; average yield per acre, 26.1 bushels; value per bushel, 75 cents; total valuation, $66,000. *Wheat:* Product, 7,500,000 bushels; area in crop, 445,490 acres; average yield per acre, 17 bushels; weight per bushel, 59.7 pounds; value per bushel, 67 cents; total valuation, $5,065,200. *Rye:* Product, 21,000 bushels; area in crop, 1,412 acres; average yield per acre, 14.9 bushels; value per bushel, 65 cents; total valuation, $13,650. *Oats:* Product, 3,126,000 bushels; area in crop, 88,393 acres; average yield per acre, 35.4 bushels; value per bushel, 45 cents; total valuation, $1,406,700. *Barley:* Product, 872,000 bushels; area in crop, 29,055 acres; average yield per acre, 30 bushels; value per bushel, 69 cents; total valuation, $601,680.

Potatoes: Product, 1,258,000 bushels; area in crop, 10,943 acres; average yield per acre, 115 bushels; value per bushel, 54 cents; total valuation, $679,320.

Hay: Product, 194,763 tons; area in crop, 163,894 acres; average yield per ton, 1.19 ton; value per ton, $7.50; total valuation, $1,460,723.

Total area in crop, 742,562 acres.

Total valuation of crop, $9,293,273.

Wages of farm labor per month by the year: Without board, $35.20; with board, $25. Day wages in harvest: Without board, $2.10; with board, $1.60. Day wages of ordinary farm labor: Without board, $1.45; with board, $1.15.

Agricultural development very remarkable. Staple crops of eastern Washington, wheat and other cereals, harvested in abundance. The average yield of wheat being 25 bushels per acre. Sweet potatoes, sorghum, tobacco, egg-plant, melons, corn and hops also thrive in the Yakima valley. Corn nowhere a staple crop.

Western Washington specially adapted to all the grasses and to oats and root crops. Wheat of a fine quality also harvested. Vegetables hardly surpassed, such as potatoes, turnips, and beets. Hay yields in wonderful luxuriance. The fame of hop crop world wide, and the source of a great revenue.

One of the greatest fields in the United States for the horticulturist. The Walla-Walla, Snake river, Yakima, and other valleys famous for producing fruits. Western Washington the natural home of the apple, pear, plum, prune, and cherry, growing in great abundance. Grapes yield moderately well. Plums and prunes in size, quantity, and quality unsurpassed. No insect to prey on fruit or tree.

Strawberries, blackberries, raspberries, currants, gooseberries, and cranberries unexcelled.

Horticulture and bee culture prosperous.

Farm animals, January 1, 1888: *Horses:* Number, 96,122; average price, $61.96; value, $5,955,637. *Mules:* Number, 1,243; average price, $80.07; value, $99,529. *Milch cows:* Number, 65,523; average price, $33.30; value, $2,181,916. *Oxen and other cattle:* Number, 300,676; average price, $23.48; value, $7,060,177. *Hogs:* Number, 91,054; average price, $5.01; value, $455,997. *Sheep:* Number, 549,885; average price, $1.94; value, $1,068,976.

Live stock raising an important industry. In eastern Washington the number of stock very great and shipments very considerable. "Bunch grass," very nutritious even in winter, sustain the cattle. In western Washington the grazing is on a turf equaled only by that of Ireland. The grass on the Pacific side a beautiful green the entire year, rarely suffering either from frost or drouth.

Raising of inferior stock, however, has ceased to be profitable. Superior breeds of horses, cattle, sheep, and swine in demand, and found everywhere. Stock no longer left to take care of themselves in winter on the ranges, but are fed in places of shelter provided for them.

MANUFACTURES (1880):

Number of establishments, 261; capital, $3,202,497; average number of hands employed, 1,147; annual wages paid, $532,226; value of materials, $1,967,469.

Value of products: Sawed lumber, $1,734,742; all other industries, $1,515,392.

Total value of product of manufactures, $3,250,134.

Mineral resources very great. Gold, silver, copper, bog iron, cinnabar, lead, marble, lime, sandstone, and coal abound. Gold and silver in paying quantities.

Estimated coal area, 180,000 acres.

Coal output for year ended September 30, 1888, 1,133,801 tons.

Value per ton from $2 to $2.30.

Immense forest ranges: Yellow and red fir, white and red cedar, spruce, larch, white pine, white fir, hemlock, bull pine, tamarack, alder and maple, ash and oak, cherry and laurel and cottonwood.

Total capacity of saw mills for year ended June 30, 1888, 1,043,596,000 feet.

Lumber exports in 1887, 135,731,398 feet.

Salmon fisheries a leading and profitable industry. Pack, in 1887, 354,000 cases, valued at $2,124,000. Capital invested in average season at Shoalwater bay and Gray's harbor, $167,300; amount paid for labor, $179,770; total pack, 72,000 cases.

Halibut, cod, rockfish, salmon trout, and smaller food fishes also abound in its waters and streams. Whales (the California gray) and fine seals are taken off Cape Flattery, and form an important and lucrative trade.

Game of all kinds abound—bear, elk, caribou, moose, deer, and a great variety of small animals. Canvas back ducks plentiful, and of unexcelled flavor.

Railroad mileage, 1,197.7 miles.
Total value of all taxable property, $84,621,182.

Public school system thoroughly organized and in successful operation, affording general satisfaction. Colleges and universities of superior character, well supported.

Insane asylum at Steilacoom, hospital for the insane at Medical lake, and school for defective youth at Vancouver.

Territorial and congressional elections Tuesday after first Monday in November; senators, 12—representatives, 24; biennial sessions of legislature in odd numbered years, meeting first Monday in October; terms of senators and representatives, 2 years; limit of session, 60 days.

Legal interest rate, 10 per cent.; by contract, any rate.

TERRITORIAL LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—A deed shall be in writing, signed and sealed by the party bound thereby, witnessed by two witnesses, and acknowledged before an officer authorized to take acknowledgments. (R. C. § 2312.)

A married woman shall not be bound by any deed affecting her real estate, unless she is joined in the conveyance by her husband, and shall, upon examination by the officer taking the acknowledgment, separate and apart from her husband, acknowledge that she executed the deed of her own free will, and without fear of or coercion by her husband. The officer must certify that he has made known to her the contents of the deed. (R. C. § 2313.)

In conveying the homestead property the wife must sign the deed out of the presence of the husband, and the officer taking the acknowledgment must certify that he made known to her, at the time of signing and acknowledging the deed, that she was conveying away her homestead, and that she signed and acknowledged the deed out of the presence of her husband. (R. C. § 344.)

Acknowledgments of deeds and mortgages made within the Territory may be taken by a judge of the supreme court, judge of the probate court, justice of the peace, county auditor, a clerk of the district or supreme court, or their deputies, or a notary public. Acknowledgment made in any other State or Territory of conveyances of or mortgages upon lands situated within this Territory, may be made before any person authorized to take acknowledgments of deeds by the laws of the State or Territory wherein the acknowledgments is taken, or before any commissioner appointed by the Governor of this Territory for such purpose. Unless such acknowledgment is taken before a clerk of record of said State, or by a notary public or other officer having a seal of office, there must be attached to the deed a certificate of a clerk of a court of record for the county or district where the acknowledgment is taken, under the seal of said court, that the person making the certificate of acknowledgment was at the date thereof such officer as he therein represents himself to be; that he is authorized by law to take the acknowledgment of deeds, and verily believes the signature of the officer to be genuine. (R. C., §§ 2315–2317.)

Acknowledgments may be taken in a foreign country before any minister plenipotentiary, *charge d'affaires*, consul-general, vice-consul, or commercial agent appointed by the government of the United States to the country where it is taken, or before the mayor or chief magistrate of any city or town therein. (R. C. § 2319.)

TRUST DEEDS—Are not in practical use as a mode of securing debts. There is no legislation upon the subject.

DESCENT AND DISTRIBUTION.—*Of Real Estate.*—When any person dies intestate his real estate, after payment of debts and expenses of administration, is distributed as follows: If the decedent leaves surviving husband or wife and only one child, in equal shares to each; if more than one child, one-third to the surviving consort and remainder to the children, in equal shares. The children of a deceased child take by right of representation. If the decedent leaves no children the surviving consort takes one-half and the decedent's father and mother the other half, if both survive; but if there be no father nor mother living, to the brothers and sisters, in equal shares. If the decedent leaves a surviving consort and no issue, and no father, mother, brother, or sister, the whole must go to the surviving consort. If the decedent leaves no issue nor surviving husband or wife, father, mother, brother, or sister, the whole estate goes to the next of kin in equal degree, and if there are two or more collateral kindred in equal degree, but claiming through different ancestors, those claiming through the nearest ancestor must be preferred. The foregoing provisions relate only to the separate property of the decedent, and take the place of tenants by the curtesy and of dower. Upon the death of either husband or wife, the one-half of the community property, subject to the community debts, goes to the survivor, and the other half is subject to the testamentary disposition of the decedent, subject also to the community debts. In case there is no will it

descends as other property to the legitimate issue of his or her body; and if there be no issue it descends to the survivor to the exclusion of collateral heirs. (R. C., §§ 3302, 3303.)

OF PERSONAL ESTATE.—When any person dies intestate, possessed of separate personal estate, the widow, if any, shall have all articles of apparel or ornament, and also provisions and other necessaries for her use and that of her family as may be deemed in pursuance of law. The residue, after paying funeral expenses, shall be distributed to the same persons and in the same proportions as the real estate, except if the intestate leave a husband and issue, the husband shall be entitled to one-half. If there be no issue, he shall have the whole. If the intestate leave a widow and issue she shall be entitled to one-half, and if there is no issue she shall be entitled to the whole. (R. C., § 3316.)

DOWER—Is abolished.

EXEMPTION.—All real and personal estate belonging to a married woman at the time of her marriage, and all she subsequently becomes entitled to in her own right, and all her personal earnings, and all rents and profits of such real estate shall not be liable for her husband's debts so long as she or any minor heir of her body is living, but her property is liable for debts owing by her at the time of her marriage. To a householder, being the head of a family, a homestead of the value of one thousand dollars while occupied by such family. All wearing apparel, private libraries, not to exceed five hundred dollars in value, family pictures, and keepsakes. To each householder one bed and bedding, and one additional bed and bedding for every two additional members of the family, and other household goods of the coin value of five hundred dollars. Two cows with their calves, five swine, two stands of bees, thirty-six domestic fowls, and provisions and fuel for six months. To a farmer one span of horses and harness, or two yokes of oxen, and one wagon with farming utensils not exceeding five hundred dollars coin value. To a mechanic the tools used to carry on his trade for the support of himself and family, also material of the value of five hundred dollars. To a physician, his library, not exceeding five hundred dollars in value, horse and carriage, instruments and medicines. To attorneys and clergymen, their libraries, not exceeding the coin value of one thousand dollars, also office furniture, stationery, and fuel not exceeding in value two hundred dollars. All fire-arms kept for use, and a canoe, skiff, or small boat not exceeding the coin value of fifty dollars. To a person engaged in lightering one or more lighters or scows and a small boat, not exceeding the aggregate value of two hundred and fifty dollars. To a drayman his team. To a person engaged in logging, three yokes of work oxen, and implements of the value of three hundred dollars. No property shall be exempt upon a judgment for its purchase price, or for a tax levied thereon. (R. C., §§ 341-347.)

MARRIED WOMEN—May sue and be sued without joining her husband, when the action concerns her separate property, or her right or claim to the homestead property, or when she is living separate and apart from her husband, or when the action is between herself and her husband. If a husband and wife be sued together she may defend for her own right, and for his also if he neglects to do so. (R. C. §§ 6, 7.)

All property, both real and personal, owned by the wife before marriage, and that acquired afterward by gift, devise, or descent, is her separate property. Property thus acquired by the husband constitutes his separate property. All property acquired during marriage except by gift, devise, or descent constitutes their common property. (R. C. §§ 2100, 2108.)

A wife may receive the wages of her personal labor and maintain an action in her own name therefor, and may prosecute and defend all actions for the preservation and protection of her property rights, as if unmarried. (R. C. § 2101.) Contracts may be made by a wife and liabilities incurred, to the same extent as if unmarried. (R. C. § 2106.)

The husband has the management and control of the community property, and may dispose of the personal property, but he cannot sell or encumber the real estate without the wife joins in executing the conveyance or incumbrance. (R. C., §§ 2109, 2110.)

All laws which impose or recognize civil disabilities upon a wife which are not imposed or recognized as existing as to the husband, are hereby abolished; provided that this shall not confer the right to vote or hold office upon the wife, except as is otherwise provided by law; and for any unjust usurpation of her natural or property rights she shall have the same right to appeal, in her own individual name, to the courts of law or equity, for redress and protection, that her husband has. Henceforth the rights and the responsibilities of the parents, in the absence of misconduct, shall be equal, and the mother shall be as fully entitled to the custody, control, and earnings of the children as the father, and in case of the father's death the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death." (R. C., §§ 238, 239.)

MECHANICS' LIENS.—Mechanics and material men may have liens on buildings and lands on which they stand, by filing notice thereof, within sixty days of the completion of the work or furnishing materials, with the county auditor, stating amount due above all set-offs. Suit must be brought within eight months after such filing.

Lumbermen may have a similar lien on logs and timber, and farm laborers on crops, by filing notice of lien in county auditor's office within thirty days after debt accrued, and bringing suit thereon within one year thereafter.

MORTGAGES—Are executed and acknowledged in the same manner as deeds, and may be foreclosed in a court of equity jurisdiction upon failure of the mortgagor to pay any instalment of the principal or interest.

WILLS.—Every male person above the age of twenty-one years, and every female above the age of eighteen years, of sound mind, may by last will devise his or her real and personal estate. (R. C., §§ 1318, 1610.)

Every will shall be in writing, signed by the testator, or by some person under his direction, and shall be attested by two or more competent witnesses, subscribing their names in the presence of the testator. (R. C., § 1319.)

WISCONSIN:

French form of an Indian word signifying "*Wild Rushing Channel*," or "*Flowing West*." Also called the "BADGER STATE." Settled in 1669 at Green Bay." Formed part of the northwest territory ceded to the United States by Virginia and other States. Organized as a Territory April 20, 1836, and admitted as a State May 29, 1848.

Area, in square miles, 53,924; in acres, 34,511,360

Counties, 67.

Value of farm lands and products, $568,187,288.

Acres of improved farm land, 8,115,333.

Acres of woodland, 3,660,198.

Acres of unimproved farm land, 4,583,715. Total farm land acreage, 16,359,246.

Area of clear water lakes, in square miles, 3,000; in acres, 1,920,000.

Madison is the capital of the State: population in 1885, 12,064. Milwaukee, the principal business center, is also a port of entry. It is noted for its pork packing and beer brewing. Population in 1885, 158,500.

Population of State in 1885, 1,563,423.

Temperature at Milwaukee, in winter, 19° to 31°; in summer, 66° to 70°. Rainfall, 30 inches.

Farm products—crop of 1886: *Indian corn:* Product, 28,493,000 bushels; area in crop, 1,109,779, acres; average yield per acre, 25.7 bushels; value per bushel, 37 cents; total valuation, $10,542,410. *Wheat:* Product, 14,725,000 bushels; area in crop, 1,281,018 bushels; weight per bushel, 57.3 pounds; average yield per acre, 11.5 bushels; value per bushel, 68 cents; total valuation, $10,013,000. *Rye:* Product, 1,986,000 bushels; area in crop, 172,674 acres; average yield per acre, 11.5 bushels; value per bushel, 48 cents; total valuation, $953,280. *Oats:* Product, 39,656,000 bushels; area in crop, 1,398,349 acres; average yield per acre, 28.4 bushels; value per bushel, 28 cents; total valuation, $11,103,680. *Barley:* Product, 6,991,000 bushels; area in crop, 317,756 acres; average yield per acre, 22 bushels; value per bushel, 48 cents; total valuation, $3,355,680. *Buckwheat:* Product, 261,000 bushels; area in crop, 31,852 acres; average yield per acre, 8.2 bushels; value per bushel, 56 cents; total valuation, $146,160.

Potatoes: Product, 6,974,000 bushels; area in crop, 108,974 acres; average yield per acre, 64 bushels; value per bushel, 42 cents; total valuation, $2,929,080.

Hay: Product, 1,924,237 tons; area in crop, 1,732,486 acres; average yield per acre, 1.11 ton; value per ton, $8.60; total valuation, $16,548,438.

Tobacco: Product, 23,744,000 pounds; area in crop, 24,229 acres; average yield per acre, 980 pounds; value per pound, 10 cents; total valuation, $2,374,400.

Total area in crop, 6,177,117 acres.

Total value of crop, $57,966,128.

Wages of farm labor per month by the year: Without board, $24.65; with board, $16.80. Day wages in harvest: Without board, $1.80; with board, $1.44. Day wages of ordinary farm labor: Without board, $1.22; with board, 97 cents.

Sorghum (1885:) Acres planted, 6,317; product, 599,031; value, $259,580.80. *Maple sugar:* Product, 166,803 pounds; value, $19,705.59. *Maple molasses:* Product, 37,014 gallons; value, $37,092.60.

Bees (1885): Number of colonies, 51,917; wax, 44,281 pounds; value, $247,481.80. *Honey:* Product, 1,432,766 pounds; value, $160,076.75.

Farm animals (January 1, 1888): *Horses:* Number, 412,687; average price, $78.01; value, $32,441,507. *Mules:* Number, 7,930; average price, $90.34; value,

716,424. *Milch cows:* Number, 548,222; average price, $23.83; value, $13,064,130. *Oxen and other cattle:* Number, 640,752; average price, $20.97; total valuation, $13,438,163. *Hogs:* Number, 1,123,866; average price, $6.02; total valuation, $6,766,798.

Sheep: Number, 911,662; average price, $2.15; total valuation, $1,962,261.

Wool clip in 1885: Product, 6,174,527 pounds; value, $1,337,088.

Dairy products (1885): Butter: Product, 36,240,431 pounds; value, $5,850,402.55. Cheese: Product, 33,478,900 pounds; value, $2,984,813.92.

Number in 1885 of farm hands, 60,285.

Average wages per annum, including board, $141.

Estimated number of persons employed in agriculture, in addition to farm hands, 272,216.

Total number of persons employed in agriculture, 332,501.

Aggregate wages of farm hands, including board, $8,549,540.25.

Fish culture encouraged by the State.

Institutions for the treatment of the insane and deaf and dumb and blind.

Mississippi river navigable throughout southwest boundary. On Lake Michigan, on its east boundary, and on Lake Superior, on the north, are fine harbors.

MANUFACTURES (1885):

Lumber, shingles, and lathes; iron, lead, and leather; woolen and cotton fabrics; linseed oil, vinegar, whisky, and beer; earthenware, wood, drain tile, etc.

Value of manufacturing establishments and their products, $193,700,167.

Number of persons employed in manufactures, 71,185.

Estimated number employed in other vocations, 179,848.

Total persons employed, 583,534.

In Grant, Lafayette, and Iowa counties are extensive mines of lead; in Crawford and Iowa counties native copper is found; in Sauk, Ashland, Jackson, and Dodge counties iron ores, and from Milwaukee clay is made the noted cream colored bricks.

Railroads, June 30, 1887: Mileage, 7,720; total track, 9,015.75 miles; locomotives, 967; total revenue cars, 29,649.

Colleges, 7. Public school system well managed and supported by ample funds.

Suffrage exercised in school matters by women.

Electoral college, 11.

Presidential, congressional, and State elections held on Tuesday after first Monday in November; number of senators, 33—representatives, 100; biennial sessions of legislature in odd numbered years, meeting second Wednesday in January; no limit to sessions; terms of senators, 4 years—of representatives, 2 years.

Legal interest, 7 per cent.; by contract, 10 per cent.; usury forfeits entire interest.

STATE LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS—Executed within the State of any interest in lands therein must be executed in the presence of two witnesses, who shall subscribe their names to the same as such, and the persons executing any conveyance must acknowledge the execution thereof

before any judge or court commissioner, clerk of a court of record, county clerk, register of deeds, notary public, or justice of the peace; and the officer taking such acknowledgment must indorse thereon a certificate of acknowledgment and the true date of the making of the same under his hand.

TRUST DEEDS.—Trust deeds are not in general use in this State.

DESCENT AND DISTRIBUTION OF PROPERTY.—Real property undevised descends, subject to the debts of the decedent, also to homestead and dower rights of the widow, and husband's rights as tenant by the curtesy, as follows, if not a homestead: 1. In equal shares to his children and to the lawful issue of any deceased child by right of representation. 2. If he or she leave no issue, to widow or surviving husband. 3. If no children, surviving husband, or widow, to the parents or survivor of them. 4. If he leave no issue, or father or mother, to his brothers and sisters and their children by representation. 5. If he leave no issue, widow, father, mother, brother, or sister, to his next of kin. 6. If he leave no widow, or kindred, the property shall escheat to the State and be added to the capital of the school fund.

The homestead, if undevised, shall descend free of all judgments and claims, as follows: 1. If he leaves no lawful issue, to his widow. 2. If he leave widow and issue, to his widow during her widowhood, and upon her marriage or death to his heirs; and if he leave issue and no widow, to such issue. The homestead will descend free from all claims unless there be no widow and no child, or no child of any deceased child.

Personal property undevised is distributed as follows: 1. A widow is allowed all her apparel, ornaments, and all wearing apparel and ornaments of the deceased, household furniture not exceeding in value two hundred and fifty dollars, and other personal property to be selected by her, not exceeding in value two hundred dollars. 2. A widow and minor children constituting the family are entitled to such reasonable allowance of the personal estate as the county court shall judge necessary for their maintenance during the settlement of the estate. 3. Children under seven years of age having no mother are entitled to an allowance for their maintenance until they arrive at the age of seven years. 4. The residue is to be distribtued in the same manner as real estate, except that when the deceased shall leave a widow and issue the widow takes a child's share.

DOWER.—The widow of every deecased person is entitlad to dower or use during her natural life of one-third part of all the lands whereof her husbund was seized of an estate of interitance unless lawfully barred.

EXEMPTIONS.—1. The family Bible. 2. Family pictures and school books. 3. The library of the debtor. 4. The seat or pew in any place of public worship. 5. All wearing apparel of the debtor and his family; all beds and bedsteads and bedding kept and used for the debtor and his family; all stoves and appendages kept for the use of the debtor and his family; all cooking utensils and all other household furniture not exceeding two hundred dollars in value, and one gun, rifle, or other firearm not exceeding fifty dollars in value. 6. Two cows, ten swine, one yoke of oxen and horse or mule, or in lieu of one yoke of oxen or horse or mule, two horses or two mules, ten sheep and the wool from the same, either in the raw materiai or manufactured into yarn or cloth. The necessary food for one year's support for all the stock, also one wagon, cart or dray, one sleigh, one plow, one drag, and other farming utensils, including a tackle for teams, not exceeding two hundred dollars in value. 7. The provisions for the debtor and his family necessary for one year's support, and fuel necessary for one year. 8. The tools, implements, and stock in trade of any mechanic, miner, merchant, trader, or other person, used or kept for the purpose of carrying on his trade or business, not exceeding two hundred dollars in value. 9. All sewing machines owned by individuals and kept for the use of themselves or family. 10. Any sword, plate, books, or other articles presented or given to any person by congress, legislature, or any of the United States, or by either body of congress or of such legislature, whether presented by vote or raised by subscription of the members of either of the aforesaid bodies. 11. Printing material and press or presses used in the business of any printer or publisher, to an amount not exceeding fifteen hundred dollars in value, provided no sum exceeding four hundred dollars shall be exempt from payment of employees. 12. Horses, arms, equipments, and uniforms of all officers, non-commissioned officers, and privates used for military purposes in the organized militia of the State. 13. All books, maps, plats, and other papers kept or used by any person for the purpose of making abstracts of title to land. 14. The interest owned by any inventor in any invention secured to him by letters patent of the United States. 15. The earnings of all married persons and other persons having a family dependent upon them for support, for three months next preceding the issue of an attachment, execution, or garnishment, to the amount of sixty dollars only for each month. 16. All fire engines, apparatus, and equipments used or to be used for the protection of property from fire. 17. All moneys arising from insurance of any exempt property when such property has been destroyed by fire. 18. All private property is exempt from seizure and sale upon execution issued to enforce a judgment or decree which shall have been rendered against any county, town, city, village, or school district of the State. 19. All moneys arising on any policy of insurance on the life of a minor, payable to his father or mother, or both, shall be exempt against the creditors of such father or mother, but not against the creditors of such minor. 20. All cemetery lots owned by individuals and all monuments therein, the coffins and other articles for the burial of any dead person, and the tombstone or monument for his grave, by whomsoever purchased. No property exempt by the provision of this section shall be exempt from attachment or execution issued upon a judgment in an action brought by any person for the recovery of the whole or any part of the purchase money of the same property. The exemptions provided for in subdivisions above numbered three, six, seven, eight, nine, eleven, thirteen, fourteen, seventeen, and nineteen extend only to debtors having an actual residence in the State, and when such debtors and their families, or any of them, shall be removing from one place of residence to another. The property mentioned in subdivisions 5, 6, 11, 13, 14, 15, 17, and 19 is not exempt as against domestic labor in the

dwelling house of the employer. The exempt property may be selected by the debtor, his agent, clerk, or legal representative, when necessary to distinguish the same. When personal property is seized and a part of such property is exempt, the officer making such seizure shall cause an appraisal to be made of the exempt property, which appraisal will be *prima facie* evidence of the value of the property appraised, for the purpose of such exemption. A homestead to be selected by the owner, consisting, when not included in any city or village, of any quantity of land not exceeding forty acres, used for agricultural purposes, and when included in any city or village, of any quantity of land not exceeding one-fourth of an acre and the dwelling house thereon and its appurtenance owned and occupied by any resident of the State, is exempt from execution except on laborers' or mechanics' purchase money liens and mortgages and taxes. Proceeds of a homestead are exempt.

MARRIED WOMEN.—The real and personal property of any married female shall not be subject to the disposal of her husband, or be liable for his debts, but shall be her sole and separate property, as if she were unmarried. Any married female may receive by inheritance, or by gift, grant, devise, or bequest from any person except her husband, and hold to her sole and separate use and convey and devise the same. A married woman has the right to transact business in her own name and not be subject to her husband's control or interference, or liable for his debts, if her husband desert her, or for any cause neglects or refuses to provide for her support or for the support and education of her children. Every married woman may sue and be sued in her own name, in regard to her separate property or business, and a judgment may be rendered against her and enforced against her separate property. Any married women may sue in her own name for any injury to her person or character, and in actions between herself and her husband.

MECHANICS' LIENS.—Every person furnishing labor, materials, or machinery, in the erection, construction, repair, protection, or removal of any building, bridge, water lot, wharf, well, or fountain, may have a lien thereon to the extent of forty acres, or within the limits of an incorporated city or village, one-quarter acre. A claim for lien must be filed with the clerk of the circuit court within six months from the date of the last charge, and action brought within one year from such date, unless, within thirty days before the expiration of the year, the time is extendad for another year, by annexing to the claim on file an affidavit showing the interest of the claimant in the property by virtue of such lien.

Sub-contractors have a similar lien to the extent of amount due from owner to contractor, if claim is filed within sixty days after the last charge.

MORTGAGES.—Mortgages are executed the same as deeds.

WILLS.—Every person of full age, and any married woman of the age of eighteen years, may dispose of his or her property by a last will and testament in writing. No will, except a nuncupative will is valid unless it be in writing, and signed by the testator, or by some person in his presence, and by his express direction, and attested and subscribed in the presence of the testator by two or more competent witnesses.

WYOMING:

An Indian word signifying "*Large Plains.*" Original settlements the trading posts of Forts Laramie and Bridger. Part of the so-called "Louisiana Purchase" ceded by France in 1803 to the United States. Included within Territory of Nebraska. Separated from Nebraska and organized as a Territory July 25, 1868.

Area: In square miles, 97,883; in acres, 62,645,120. Average altitude, 4,800 feet.

Counties, 10.

Cheyenne the capital: population, 3,456.

Temperature: At Cheyenne, in winter, 23° to 33°; in summer, 63° to 69°. Rainfall, 15 inches.

Population estimated at 85,000.

Farming an important and increasing industry, but depends greatly upon water artificially applied. Great progress in building irrigation canals. Crops: Wheat, oats, barley, and rye; also vegetables of the richest flavor. Potatoes an abundant crop. Oats, the staple crop, reached, in 1886, 60 bushels to the acre, weighing 40 pounds to the bushel. Oat straw valuable as winter feed for cattle. Excellent hay of timothy and alfalfa, cropping two and three times a year, and one ton being worth 2 or 3 tons of ordinary western prairie hay.

Lands abundant. Soil rich, crops plentiful, and farming possibilities very great.

AGRICULTURAL STATISTICS:

No. of farms (1880), 457; total land in farms, 124,433 acres; improved land in farms, 83,122 acres.

Total value of farms, $835,395.

Farm products—crop of 1886: *Wheat:* Product, 63,000 bushels; area in crop, 3,339 acres; average yield per acre, 18.9 bushels; value per bushel, 70 cents; total valuation, $44,100. *Oats:* Product, 86,000 bushels; area in crop, 2,756 acres; average yield per acre, 31.2 bushels; value per bushel, 55 cents; total valuation, $47,300.

Potatoes: Product, 124,000 bushels; area in crop, 1,293 acres; average yield per acre, 96 bushels; value per bushel, 75 cents; total valuation, $93,000.

Hay: Product, 100,045 tons; area in crop, 93,500 acres; average yield per acre, 1.07 ton; value per ton, $11; total valuation, $1,100,495.

Total area in crop, 100,888 acres.

Total value of crop, $1,284,895.

Wages of farm labor per month by the year: Without board, $37; with board, $25. Day wages in harvest: Without board, $2; with board, $1.30. Day wages of ordinary farm labor: Without board, $1.50; with board, $1.10.

Farm animals, January 1, 1888: *Horses:* Number, 99,000; average price, $43.80; value, $4,336,279. *Mules:* Number, 2,936; average price, $77.64; value, $227,964. *Milch cows:* Number, 6,994; average price, $35; value, $244,790. *Oxen and other cattle:* Number, 1,230,192; average price, $19.11; value, $23,504,663. *Hogs:* Number, 2,613; average price, $6.64; value, $17,358.

Sheep: Number, 523,340; average price, $2.08; value, $1,089,855.

Wool clip (1880), 691,650 pounds.

Dairy products (1880): Milk, 75,343 gallons; butter, 105,643 pounds; cheese, 2,930 pounds.

Live stock raising (cattle, horses, and sheep) heretofore the principal industry. Grazing area very large. Horse raising very important. Many large horse ranches—horses bred for the saddle, the farm, the road, the dray, the carriage, and the race track.

Wyoming Stock Growers' Association represents 2,000,000 cattle, over 1,000,000 horses, and several hundred thousand sheep, valued in all as worth $100,000,000. But much capital heretofore invested in cattle raising now diverted to the raising of farm products.

MANUFACTURES (1880):

Number of establishments, 57; capital, $364,373; average number of hands employed, 391; total wages paid per annum, $187,798; value of materials, $601,214.

Value of products: Iron and steel, $491,345; all other industries, $407,149.

Total value of products of manufactures in 1880, $898,494.

Works for the manufacture of window glass at Laramie city a great pecuniary success. Soda, limestone, and sand, all the necessary ingredients for the manufacture, in inexhaustible quantities, at very door of factory. All the West open as a market for the glass.

Mining progressing. Regions rich in copper, silver, mica, and iron. Gold in paying quantities found at South Pass and Douglas Creek.

Rich in coal beyond computation. Coal found everywhere, and of a very excellent bituminous quality.

Bituminous coal output of 1887, 1,170,318 tons.

Largest coal mines those worked by the Union Pacific Railroad Company, of which the Rock Spring is best, although all mined in the Territory excellant heating and steam coal.

Oil fields richest in the world.

Estimated area of coal fields, 30,000 square miles.

The Laramie Chemical Works in operation for years, and doing a large business.

Daily product, 32,800 pounds of concentrated lye, caustic soda, soda ash, and salt cake.

Soda, all sodium salts exclusive of common salt, very pure soda, in inexhaustible bodies, and destined to become of great commercial value.

Common salt in Crook county.

Various rock species in abundance: granite, grey, brown, and red; beautiful marble, resembling Italian marble, of the purest and finest quality and of every variety, pure white, black, pink, gray, spotted, and sprangled; limestone; sandstone, white, gray, and red; slates, etc. Brick clay in all parts of the country.

Not a timber country. Healthy growth of large pine timber in some places on mountains, but as a rule trees small and forests light, except in region around Yellowstone National Park. Timber on mountain sides difficult to get at.

Railroads, June 30, 1887: Mileage, 833.30; total track, 866.62 miles; locomotives, 40; total revenue cars, 1,196.

Yellowstone National Park located in Territory.

Public schools rank first class; average attendance fair. University at Laramie city.

Insane asylum at Evanston, and blind, deaf, and dumb asylum at Cheyenne. Poor asylum at Lander.

Assessed valuation of property, $32,089,613.

Territorial and congressional elections Tuesday after first Monday in November; Senators,, 12—representatives, 24; biennial sessions of legislature in even numbered years, meeting second Tuesday in January; limit of session, 60 days; terms of Senators and representatives, 2 years.

Legal interest rate, 12 per cent; by contract, any rate.

TERRITORIAL LAWS IN RELATION TO DEEDS, DOWER, DESCENT AND DISTRIBUTION OF PROPERTY, MARRIED WOMEN, MECHANICS' LIENS, MORTGAGES, AND WILLS.

DEEDS.—Conveyances of land, or of any estate or interest therein, may be made by deed signed and sealed by the grantor, or by his lawful agent or attorney and acknowledged or proved and recorded. Such deed must, if executed within this Territory, be executed in the presence of one witness, who shall subscribe his name to the same as such; and any person executing a deed or morigage may acknowledge the same before any judge or commissioner of a court of record, or before any notary public or justice of the peace within the Territory.

If any deed or mortgage shall be executed in any other State, Territory or District of the United States, the same may be executed according to the laws of such State, Territory, or District, by any officer authorized by the laws of such State, Territory, or District to take the acknowledgment of deeds or mortgages therein, or before any commissioner appointed by the governor of this Territory for that purpose. In the case where deeds or mortgages are executed and acknowledged out of the Territory, unless the acknowl-

edgment is taken before a commissioner appointed by the governor of this Territory for that purpose, such deed or mortgage shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district within which such acknowledgment was taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment at the date thereof was such officer as he is therein represented to be, that he knows the signature of such person subscribed thereto to be genuine, and that the deed or mortgage is executed according to the laws of such State, Territory or District.

The execution of deeds must be acknowledged in all cases. Proof of execution will not answer in lieu of acknowledgment.

TRUST DEEDS—For securing debts, or to indemnify sureties, are provided for by statute.

DESCENT AND DISTRIBUTION OF PROPERTY.—If the estate does not exceed ten thousand dollars, after payment of debts, and if the intestate leaves a surviving husband or wife and no children nor descendants of children, three-fourths goes to the surviving wife or husband and one-fourth to the father or mother of the intestate or to their descendants. If the intestate leaves a surviving wife or husband and surviving children, one-half goes to the wife or husband and one-half to the surviving children or to their descendants.

DOWER.—By act of Congress the widow is endowed of a third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless she shall have lawfully released her right thereto.

EXEMPTIONS.—Every householder being the head of a family is entitled to a homestead not exceeding in value fifteen hundred dollars, exempt from execution or attachment for any debt, contract, or civil obligation, while such homestead is actually occupied as such by the owner thereof, or his or her family. The homestead may consist of a house and lot or lots in any town or city, or a farm of not more than one hundred and sixty acres. The owner of a homestead may mortgage the same, but such mortgage shall not be binding against the wife of a married man who may be occupying the premises with him unless she shall freely and voluntarily acknowledge and sign the same, and the officer taking such acknowledgment shall fully apprise her of her rights and of the effect of signing such mortgage.

Besides the homestead above mentioned, the wearing apparel of every person is exempt from judicial or ministerial process; also the following property when owned by any person being the head of a family and residing with the same, to wit: the family bible, pictures, and school books; a lot in any cemetery or burial ground; furniture, bedding, provisions, and such other articles as the debtor may select, not to exceed in all the value of five hundred dollars, to be ascertained by the appraisement of three disinterested householders; provided that no personal property of any person about to remove or abscond from the Territory shall be exempt. The tools, team, and implements, or stock in trade of a mechanic, miner, or other person, and used and kept for the purpose of carrying on his trade or business, is exempt to a value not exceeding three hundred dollars; also the library, instruments, or implements of any professional man, not to exceed in value three hundred dollars. The person claiming exemption must in all cases be a *bona fide* resident of the Territory.

MARRIED WOMEN.—The rights of a married woman in this Territory are very nearly the same as those of an unmarried woman, as respects her property, both real and personal. She may make a will, sue and be sued, make contracts, carry on a trade or business, retain her own earnings, and hold property, real or personal, with the rents and profits of the same, in her own name, free from the control or interference of her husband, the same as though she were sole and unmarried. And her property is exempt from execution or attachment for the debts of her husband.

MECHANICS' LIENS.—Any person performing labor or furnishing materials, fixtures, or machinery for any building, erection or improvement on land, or for repairing the same, may have a lien on the land to the extent of one acre, or if in a city, town or village, on the lot on which the building is situated. Every original contractor within sixty days, and every sub-contractor, journeyman, or laborer within twenty days, after indebtedness accrues, must file, with the register of deeds of the county, an account, under oath, of the amount due after allowing for credits, a description of the property, and name of owner and contractor if known. Persons other than original contractors must, ten days before filing lien, give written notice of the claim and amount thereof. Proceedings to foreclose lien must be begun within a year.

MORTGAGES—Are usually accompanied by notes for the amount to be secured. Foreclosed by bill in equity. No redemption after sale.

WILLS.—Any person of full age and sound mind may dispose of his property by will. All wills to be valid must be in writing, witnessed by two competent witnesses, and signed by the testator or caused to be signed by him in his presence. Any person having custody of a will shall, on information of the death of the testator, file the same with the probate judge, who shall open and read the same. The probate court shall give notice of the time fixed for proving a will, by publishing a notice in a daily or weekly newspaper published in the county where the will is filed, and the last publication must be at least ten days before the time fixed for the proving of the will. Wills when proved and allowed shall have the certificate of the probate judge and seal of the probate court annexed thereto, and every will so certified, its record or transcript, may be read in evidence in all courts.

THE PUBLIC DOMAIN,

—OR—

PUBLIC LANDS.

United States Land Offices.

ALABAMA.
- Huntsville.
- Montgomery.

ALASKA.
- Sitka.

ARKANSAS.
- Little Rock.
- Camden.
- Harrison.
- Dardanelle.

ARIZONA.
- Prescott.
- Tucson.

CALIFORNIA.
- San Francisco.
- Marysville.
- Humboldt.
- Stockton.
- Visalia.
- Sacramento.
- Los Angeles.
- Shasta.
- Susanville.
- Independence.

COLORADO.
- Denver City.
- Leadville.
- Central City.
- Pueblo.
- Del Norte.
- Montrose.
- Gunnison.
- Durango.
- Glenwood Springs.
- Lamar.

DAKOTA.
- Mitchell.
- Devil's Lake.
- Watertown.
- Fargo.
- Yankton.
- Bismarck.
- Deadwood.
- Aberdeen.
- Grand Forks.
- Huron.

FLORIDA.
- Gainesville.

IDAHO.
- Boise City.
- Lewiston.
- Blackfoot.
- Hailey.
- Cœur d'Alene.

IOWA.
- Des Moines.

KANSAS.
- Topeka.
- Salina.
- Independence.
- Wichita.
- Kirwin.
- Concordia.
- Larned.
- Wa-Keeney.
- Oberlin.
- Garden City.

LOUISIANA.
- New Orleans.
- Natchitoches.

MICHIGAN.
- Grayling.
- Marquette.

MINNESOTA.
- Taylor's Falls.
- Saint Cloud.
- Duluth.
- Fergus Falls.
- Worthington.
- Tracy.
- Benson.
- Crookston.
- Redwood Falls.

MISSISSIPPI.
- Jackson.

MISSOURI.
- Boonville.
- Ironton,
- Springfield.

MONTANA.
- Miles City.
- Helena.
- Bozeman.

NEBRASKA.
- Neligh.
- Lincoln.
- O'Neill.
- Grand Island.
- North Platte.
- Bloomington.
- Valentine.
- Sidney.
- Chadron.
- McCook.

NEVADA.
- Carson City.
- Eureka.

NEW MEXICO.
- Santa Fe.
- Las Cruces.

OREGON.
- Oregon City.
- Roseburg.
- Le Grand.
- Lakeview.
- The Dalles.
- Drewsey.

UTAH.
- Salt Lake City.

WASHINGTON.
- Seattle.
- Vancouver.
- Walla Walla.
- Spokane Falls.
- Yakima.

WISCONSIN.
- Menasha.
- Falls of Saint Croix.
- Wausau.
- La Crosse.
- Ashland.
- Eau Claire.

WYOMING.
- Cheyenne.
- Evanston.
- Buffalo.

NOTE.—By act of July 31, 1876, the land offices in Ohio, Indiana, and Illinois were abolished; and by act of March 3, 1877, the vacant tracts of public land in Ohio, Indiana, and Illinois are made subject to entry and location at the General Land Office, Washington, D. C.

THE PUBLIC DOMAIN, or PUBLIC LANDS.

The public domain, or public lands—the property of the nation, and subject to legislative control and disposition by Congress alone—is the area known as public lands acquired by treaty, capture, cession by States, conquest, or other acquisition and purchase, and lying and being in the States and Territories below enumerated. The fact of the nation owning land within any of the other States not enumerated below does not make them "public lands;" such lands, used for forts, arsenals, dock-yards, post-offices, court-houses, hospitals, or any other purpose of government, are not public lands or domain.

NAMES OF PUBLIC LAND STATES AND TERRITORIES.

The public lands are included only within the States of Alabama, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Wisconsin, and the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming, and the "Public Land Strip." Alaska, although public domain, has not as yet had the laws extended over it by Congress. These States and Territories, with the exception of Ohio, Indiana, Illinois, the "Land Strip," and Alaska, are divided into land districts, in each of which there is a land office established by law, with a register and receiver in attendance for the sale or other disposal of the public lands therein. (See sections 2234 to 2247 of the Revised Statutes of the United States; also list of land offices on page 107.) Information regarding public lands may be obtained at these offices.

Alaska is made a district by act of Congress of May 17, 1884 (23 Stats., 24,), but only the mineral lands therein are subject to disposal.

METHODS AND SYSTEM OF LAND PARCELING SURVEYS.

Preliminary to surveying a district, a surveying meridian and base-line must be established.

Geographical positions of the principal surveying meridians and base-lines.

Since the adoption of the rectangular system of public surveys, May 30, 1785, certain initial points, or the intersection of the principal bases with surveying meridians, have been brought into requisition to secure the requisite certainty and brevity of description in the transfer of public lands to individual ownership. From the principal bases townships of six miles square are run out and established, with regular series of numbers counting north and south thereof, and from the surveying meridians a like series of ranges are numbered both east and west of the principal meridians.

During the period of ninety years since the organization of the system the following numerical and independent principal meridians and bases have been initiated, to wit:

The first principal meridian divides the States of Ohio and Indiana, having for its base the Ohio river, the river being coincident with 84° 51′ of longitude west from Greenwich. This meridian governs the surveys of public lands in the State of Ohio.

The second principal meridian coincides with 86° 28′ of longitude west from Greenwich, starts from the confluence of the Little Blue river with the Ohio, runs north to the northern boundary of Indiana, and governs the surveys in Indiana and a portion of those in Illinois.

The third principal meridian starts from the mouth of the Ohio river and extends to the northern boundary of the State of Illinois, and governs the surveys in said State *east* of the meridian, with the exception of those projected from the second meridian, and the surveys on the *west* to the Illinois river. This meridian coincides with 89° 10′ 30″ of longitude west from Greenwich.

The fourth principal meridian begins in the middle of the channel of the mouth of the Illinois river, in latitude 38° 58′ 12″ north and longitude 90° 29′ 56″ west from Greenwich, and governs the surveys in Illinois west of the Illinois river and west of the third principal meridian lying north of the river. It also extends due north through Wisconsin and northeastern Minnesota, governing all the surveys in the former and those in the latter State lying east of the Mississippi and the third guide meridian (west of the fifth principal meridian) north of the river.

The fifth principal meridian starts from the mouth of the Arkansas river, and with a common base-line running due west from the mouth of the Saint Francis river, in Arkansas, governs the surveys in Arkansas, Missouri, Iowa, Minnesota west of the Mississippi, and the third guide meridian north of the river, and in Dakota Territory east of the Missouri river. This meridian is coincident with 90° 58′ longitude west from Greenwich.

The sixth principal meridian coincides with longitude 97° 22′ west from Greenwich, and, with the principal base-line intersecting it on the 40th degree of north latitude, extends north to the intersection of the Missouri river and south to the 37th degree of north latitude, controlling the surveys in Kansas, Nebraska, that part of Dakota lying south and west of the Missouri river, Wyoming, and Colorado, excepting the valley of the Rio Grande del Norte, in southwestern Colorado, where the surveys are projected from the New Mexico meridian.

In addition to the foregoing six principal meridians and bases governing public surveys, there have been established the following meridians and bases, viz:

The Michigan meridian, in longitude 84° 19′ 09″ west from Greenwich, with a base-line on a parallel seven miles north of Detroit, governing the surveys in Michigan.

The Tallahassee meridian, in longitude 84° 18′ west from Greenwich, runs due north and south from the point of intersection with the base-line at Tallahassee, and governs the surveys in Florida.

The Saint Stephen's meridian, longitude 88° 02′ west from Greenwich, starts from Mobile, passes through Saint Stephen's, intersects the base-line on the 31st degree of north latitude, and controls the surveys of the southern district in Alabama and of the Pearl river district lying east of the river and south of township 10 north in the State of Mississippi.

The Huntsville meridian, longitude 86° 31′ west from Greenwich, extends from the northern boundary of Alabama as a base, passes through the town of Huntsville, and governs the surveys of the northern district in Alabama.

The Choctaw meridian, longitude 89° 10′ 30″ west from Greenwich, passes two miles west of the town of Jackson, in the State of Mississippi, starting from the base-line twenty-nine miles south of Jackson, and terminating on the south boundary of the Chickasaw cession, controlling the surveys east and west of the meridian and north of the base.

The Washington meridian, longitude 91° 05′ west from Greenwich, seven miles east of the town of Washington, in the State of Mississippi, with the base-line corresponding with the 31st degree of north latitude, governs the surveys in the southwestern angle of the State.

The Saint Helena meridian, 91° 11′ longitude west from Greenwich, extends from the 31st degree of north latitude, as a base, due south, and passing one mile east of Baton Rouge, controls the surveys in the Greensborough and the southeastern districts of Louisiana, both lying east of the Mississippi.

The Louisiana meridian, 92° 20′ west from Greenwich, intersects the 31st degree north latitude at a distance of forty-eight miles west of the eastern bank of the Mississippi river, and, with the base-line coincident with the said parallel of north latitude, governs the surveys in Louisiana west of the Mississippi.

The New Mexico meridian, longitude 106° 52′ 09″ west from Greenwich, intersects the principal base-line on the Rio Grande del Norte about ten miles below the mouth of the Puerco river, on the parallel of 34° 19′ north latitude, and controls the surveys in New Mexico, and in the valley of the Rio Grande del Norte, in Colorado.

The Great Salt Lake meridian, longitude 111° 53′ 47″ west from Greenwich, intersects the base-line at the corner of Temple Block, in Salt Lake city, Utah, on the parallel of 40° 46′ 04″ north latitude, and governs the surveys in the Territory of Utah.

The Boise meridian, longitude 116° 20′ west from Greenwich, intersects the principal base between the Snake and Boise rivers, in latitude 43° 26′ north. The initial monument, at the intersection of the base and meridian, is nineteen miles distant from Boise city, on a course of south 29° 30′ west. This meridian governs the surveys in the Territory of Idaho.

The Mount Diablo meridian, California, coincides with longitude 121° 54′ west from Greenwich, intersects the base-line on the summit of the mountain from which it takes its name, in lattitude 37° 53′ north, and governs the surveys of all central and northeastern California and the entire State of Nevada.

The San Bernardino meridian, California, longitude 116° 56′ west from Greenwich, intersects the base-line at Mount San Bernardino, latitude 34° 06′ north, and governs the surveys in southern California lying east of the meridian and that part of the surveys situated west of it which are south of the eighth standard parallel south of the Mount Diablo base-line.

The Humboldt meridian, longitude 124° 11′ west from Greenwich, intersects the principal base-line on the summit of Mount Pierce, in latitude 40° 25′ 30″ north, and controls the surveys in the northwestern corner of California lying west of the coast range of mountains and north of township 5 south of the Humboldt base.

The Willamette meridian is coincident with longitude 122° 44′ west from Greenwich, its intersection with the base-line is on the parallel of 45° 30′ north latitude, and it controls the public surveys in Oregon and Washington Territory.

The Montana meridian extends north and south from the initial monument established on the summit of a limestone hill, eight hundred feet high, longitude 111° 40′ 54″ west from Greenwich. The base-line runs east and west from the monument on the parallel of 45° 46′ 27″ north latitude. The surveys for the entire Territory of Montana are governed by this meridian.

The Gila and Salt River meridian intersects the base-line on the south side of Gila river, opposite the mouth of Salt river, in longitude 112° 15′ 46″ west from Greenwich, and latitude 32° 22′ 57″ north, and governs the public surveys in the Territory of Arizona.

The Indian meridian intersects the base-line at Fort Arbuckle, Indian Territory, in longitude 97° 15′ 56″ west from Greenwich, latitude 34° 31′ north, and governs the surveys in that Territory.

Since June 30, 1880, the following additional surveying meridians and baselines have been ordered or established:

The Wind river meridian governs the subdivisional surveys within the Shoshone Indian Reservation, in the Territory of Wyoming.

The Uinta special base and meridian govern the surveys of the Uinta Indian reservation, in the Territory of Utah.

The Navajoe special base and meridian controls the surveys of the Navajoe Indian reservation, in the Territories of New Mexico and Arizona.

The Black Hills meridian is coincident with the west boundary of the Territory of Dakota, on the 27° of longitude west from Washington, and intersects

the base-line in the parallel of 44° north latitude; it governs the surveys in the southwestern corner of the Territory named.

The Grand river meridian and base-line governs the subdivisional surveys for allotment to the Ute Indians, in Western Colorado.

Proposed Cimarron meridian will be coincident with the eastern boundary of the Territory of New Mexico, or 103° meridian of longitude west from Greenwich, and intersects the base-line on the parallel 36° 30′ north latitude, or the north boundary of the State of Texas, and will govern the proposed surveys in the strip of public lands inclosed between the States of Kansas and Colorado on the north, the Indian Territory on the east, the State of Texas on the south, and the Territory of New Mexico on the west.

EXECUTION OF SURVEYS.

The United States surveyor-general for the district enters into contract with a deputy surveyor, after being commissioned, for the survey of either standards, townships, or subdivisions. The contract specifies the localities where surveys are to be made, duration of the time within which the work is to be returned, the price of survey per lineal mile, including all contingent expenses to be borne by the deputy surveyor, who is required to execute the work in his own proper person, sub-contracting being illegal, and the contract must be approved by the Commissioner of the General Land Office.

The lines of public surveys over level ground are measured with a four-pole chain, sixty feet in length, 80 chains constituting one lineal mile, but with a two-pole chain where the features of the country are broken and hilly. The lines thus chained are marked through timber land by chops on line-trees on each side, and in the absence of such trees those standing nearest the survey on both sides are blazed diagonally toward the line run. Trees standing at the precise spot where legal corners are required are made available. If no such trees are there, then the corners are perpetuated by posts or stones, with inscriptions, and the positions of the same are indicated by witness trees or mounds, the angular bearings and distances from the corner being ascertained and described in the field-notes. The lines intersecting navigable streams, the area of which are excluded from sale, require the establishment of meander corner posts, the courses and distances on meandered navigable streams governing the calculations from which the true contents of fractional lots are computed and expressed in township plats. Township corner-posts, or stones common to four townships, are set diagonally, properly marked with six notches on each of the four angles set to the cardinal points of the compass; and mile posts on township lines are marked with as many notches on them as they are miles distant from the township corners respectively; the four sides of the township and section posts, which are common to four townships or sections, are marked with the corresponding number of sections.

The principal meridian, base, standard and guides having been first measured and marked, and the corner boundaries thereon established, the process of surveying and marking the exterior lines of townships, north and south of the base, and east and west of the meridian, within those standard lines, is proceeded with.

The public lands are first surveyed into rectangular tracts, according to the true meridian, noting the variation of the magnetic needle. These tracts are called townships, each six miles square, having reference to an established principal base-line on a true parallel of latitude, and to longitude styled principal meridian. Any series of contiguous townships, north or south of each other, constitutes a range; the townships counting from the base, either north or south, and the ranges from the principal meridian, either east or west. Each township is subdivided into 36 sections of one mile square, or 640 acres; in all, 23,040 acres. The "sections being numbered, respectively, beginning with the number one in the northeast section and proceeding west and east alternately,

through the township, with progressive numbers till the 36th be completed," as shown by the following diagram:

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

In establishing and surveying a base-line from the initial point east and west, quarter-section, section, and township corners are established at every 40, 80, and 480 chains, respectively, which are for sections and townships lying north of the base, and not for those situated south.

In surveying the principal meridian north and south of the initial point, similar corners are established, which are common for townships lying immediately east or west. Standard parallel or correction lines are run east and west from the principal meridian with similar character of corners as on the principal base and meridian, and constitutes special bases for township lines lying north thereof, the correction lines being run and marked at every four townships, or 24 miles north of the base, and at every five townships, or 30 miles south of the same.

Guide meridians are surveyed at distances of every eight ranges of townships, or 48 miles east and west of the principal meridian; the guides north of the principal base starting either from it or from standard parallels. They are closed by meridional lines on other standard parallels immediately north, while those lying south of the principal bases start in the first instance from the first standard parallel south, and are closed by meridional lines on the principal base. Then the guides begin on the second standard parallel south, and close on the first standard parallel south, again starting from the third standard parallel south, and closing on the second standard parallel south, and so on. The closing corners on the principal base and standard parallel are established at points of convergency of the meridians, which occasion a double set of corners on the principal base and correction, or standard parallels, styled "standard corners" and "closing corners." This process requires offsetting of the guide meridians to the extent of the convergency of the meridians on each of the standard parallels and bases.

The principal base, principal meridian, standard parallels, and guide meridians, constitute a framework of the rectangular system of public surveys. Within these limits any errors are avoided which otherwise would result from adhering to the surveys made as the law directs, to the true meridian, in consequence of the convergency of meridians and of measurement over uneven surfaces.

The surveys of the standard lines are made with instruments operating independently of the magnetic needle, the magnetic being noted solely to show the true variation. These lines divide the sphere of field operations into parallelograms of 48 by 24 miles north of the principal base, and 48 by 30 miles south, the convergency of the meridians in the former instance being greater than in the latter.

The parallelograms formed by meridians and parallels are in their turn subdivided into townships, and the latter ultimately into sections with an ordinary but perfectly adjusted compass. These parallelograms also serve to con-

nect distant surveys from those progressing regularly from the initial point, if first required, for the convenience of remote settlements or other considerations.

The township lines start from the standard corners, pre-established on the principal base and standard or correction parallels, and are surveyed to the extent required within each parallelogram. On those lines quarter-section, section, and township corners are fixed to govern the subdivisional work of the townships into 36 sections.

The sections of one mile square are the smallest tracts, the out-boundaries of which the law requires to be actually surveyed. Their minor subdivisions, represented in lines drawn on the township plats, are not surveyed and marked in the field. They are defined by law, and the surveyors-general, in protracting township plats from the field-notes of sections, merely designate them in red ink, the lines being imaginary, connecting opposite quarter-section corners in each section from south to north, and from east to west, thereby dividing sections into four quarter-sections of 160 acres each, and these, in their turn, into quarter-quarter-sections of 40-acre tracts, by imaginary lines, starting from the equidistant points between the section and quarter-section corners to similar points on the opposite sides of the section.

Each section containing 640 acres, subdivided into legal subdivisions, affords forty different descriptions, susceptible of being disposed of to purchasers or settlers, from 640-acre tracts to 40-acre parcels.

This convenient mode of subdividing sections with a view to economy and to facilitate sales of small tracts, although not actually marked on the ground by metes and bounds, yet under laws of Congress are susceptible of demarkation by any surveyor in the different States and Territories in accordance with the field notes of the original survey made by United States officers.

The instruments employed in the field work by United States surveyors consist of solar compasses, transits, and common compasses of approved construction; four-pole chains and two-pole chains, of 100 and 50 links, respectively, each link of the chain being equal to 7.92 inches. The surveyor's chains are compared with standard chains and standard yard measures furnished surveyors-general by the government. The measurement of the lines of public surveys is horizontal, requiring shortening of the chain over abrupt and undulating surface; the navigable lakes and water courses are segregated from the land, the same being declared by law public highways and not subject to sale.

SPECIAL SURVEYS MADE ON PRIVATE APPLICATION.

Under sections 2401 to 2403, Revised Statutes United States, and supplemental enactments, settlers in any township on the public domain, not mineral or reserved, and unsurveyed, can make application to a surveyor-general for a survey of the same—which is done in the manner above set out—accompanied by a certificate of deposit from a United States depositary, covering the amount estimated as necessary to pay for the same. The lands are then surveyed and duly returned. The triplicate certificate of deposit retained by the settlers is received at the various district land offices in payment for lands under the pre-emption and homestead laws.

MANNER IN WHICH PUBLIC LANDS MAY BE DISPOSED OF.

In reply to a communication of Hon. William S. Holman, chairman of the House Committee on Public Lands, Commissioner Stockslager, of the General Land Office, reported the following "synopsis of the manner in which public lands may now be disposed of:"

1. At public sale to the highest bidder, by proclamation of the President, or after public notice by order of the Commissioner of the General Land Office. (Sections 2353 and 2455, U. S. Revised Statutes.) Minimum price, $1.25 per acre, or $2.50 per acre, as the case may be. (Section 2357, U. S. Revised Statutes.)

2. At private entry at same minimum, under section 2357, U. S. Revised Statutes.

3. By pre-emption, under sections 2257 to 2288, U. S. Revised Statutes, same minimum price.

4. By homestead, under sections 2289 to 2312, U. S. Revised Statutes, with nominal fee and commissions, or when commuted to cash entry, then the minimum prices aforesaid, under section 2357, U. S. Revised Statutes. Also, "additional homesteads" allowed in certain cases under acts of March 3, 1879, and July 1, 1879, and in certain other cases to soldiers under section 2306, U. S. Revised Statutes.

5. By sale of timber or stone lands, or lands unfit for agriculture, and chiefly valuable for timber or stone, in California, Oregon, and Nevada, and in Washington Territory, remaining unoffered; minimum price, $2.50 per acre. (Act June 3, 1878.)

6. By entries for timber culture under act of June 14, 1878 (20 Stat., 113). No price per acre; nominal fees paid.

7. By sale of town lots under sections 2380 and 2381, U. S. Revised Statutes, at the appraised value of lots as the minimum.

8. By sales of town lots under sections 2382 to 2386, U. S. Revised Statutes; minimum price, $10 per lot.

9. By sale of townsites under sections 2387 to 2390, U. S. Revised Statutes; minimum price, $1.25 per acre or $2.50 per acre, as the case may be, under section 2357, U. S. Revised Statutes.

10. By pre-emptions for county seats, under section 2286, U. S. Revised Statutes; minimum price, $1.25 or $2.50 per acre, as the case may be, under section 2357, U. S. Revised Statutes.

11. By location of military bounty land warrants issued for a limited number of acres, and receivable at the rate of $1.25 per acre for lands held at $1.25 per acre, or $2.50 per acre, minimum, as the case may be, under section 2357, U. S. Revised Statutes. Warrants, provided for in sections 2414 to 2446, U. S. Revised Statutes.

12. By location of agricultural college scrip (act of July 2, 1862), same as military bounty land warrants next above.

13. By locations of supreme court or indemnity private land claim scrip (acts of June 22, 1860, and June 2, 1858), same as next above.

14. By locations of Sioux half-breed scrip (under act of July 17, 1854, 10 Stats., 304), on lands held at $1.25 or $2.50, minimum price, as the case may be, under section 2357, Revised Statutes.

15. By locations of various classes of scrip, issued to individuals under special acts of Congress, locatable some of it, upon lands held at $1.25 per acre, minimum, some, upon either $1.25 per acre or $2.50 per acre, minimum; such as Porterfield scrip, Valentine scrip, Cole's scrip, Chippewa scrip, and Revolutionary bounty land scrip, the latter receivable as money, at $1.25 for each acre called for therein.

16. Mineral entries, lode claims, and placer claims, the former at $5, the latter at $2.50 per acre, minimum.

17. Desert lands in quantities not exceeding 640 acres at $1.25 per acre, minimum, or $2.50 per acre, minimum, as the case may be, under section 2357, U. S. Revised Statutes.

18. Certain lands, containing salt springs, formerly reserved by acts of Congress, may now be sold at public auction, or after offering at such sale, if then unsold, by private entry, at the minimum price of $1.25 per acre, under act of January 12, 1877 (19 Stats. 221).

19. Coal lands are sold under sections 2347 to 2352, U. S. Revised Statutes, at the minimum of $10 per acre, if situated more than 15 miles from any completed railroad, and $20 per acre, if situated within 15 miles of such road.

20. Selections under congressional grants of swamp lands by acts of March 2, 1849, September 28, 1850, and March 12, 1860; of indemnity for swamp lands under act of March 2, 1855, and March 3, 1857; of school indemnity under sections 2275 and 2276, U. S. Revised Statutes, and various other enactments;

under grants for universities, by various acts of Congress, and under the various railroad grants.

The several existing laws for the sale and disposition of the public domain, as above summarized, permit entries and locations by individuals, associations, and corporations.

A single man, a married man, a single woman, or a married woman, if (legally) the head of a family, citizens of the United States, or having declared their intentions to become such, can have the benefits of the several settlement laws.

The theory of the settlement laws is that an individual, if he be not already the owner of 320 acres of land, can purchase 160 acres under the pre-emption act after six months' settlement, occupation, and improvement, and can acquire 160 acres under the homestead act by residence, improvement, and cultivation for a term of five years, with certain legal rebates as to time of settlement, or can purchase at the end of six months by commutation.

Under the several settlement and occupancy laws, however, a person can legally acquire 1,120 acres of the public domain.

CLASSIFICATION.

The existing laws recognize several classes of lands, as follows:

Mineral.—"In all cases 'lands valuable for mineral' shall be reserved from sale, except as otherwise expressly directed by law." (Section 2318, R. S.)

Timber and stone.—Lands valuable chiefly for timber and stone, unfit for cultivation.

Saline.—Salt springs.

Townsite lands.—Any unoccupied public lands.

Desert.—Lands which will not, without irrigation, produce an agricultural crop.

Coal lands.—Lands containing coal.

And all others as *agricultural.*

Special laws are provided for each of the seven classes named. Lands reserved or withdrawn "are not subject to entry or location."

AGRICULTURAL LANDS.

Agricultural lands can be taken in tracts of from 40 to 160 acres under the pre-emption, homestead, and timber-culture acts, or purchased at public sale or private entry.

Of agricultural public lands there are two classes: the one class at $1.25 per acre, which is designated as *minimum*, and the other at $2.50 per acre, or *double minimum*. The latter class consists of the tracts embraced within the alternate sections of land reserved to the United States in acts of Congress making grants within prescribed limits of the lines of railroads, or other works of internal improvements, to aid in the construction thereof, such reserved sections being double in price. Congress, by an act approved June 15, 1880, reduced to $1.25 per acre any lands then subject to entry (meaning, in this connection, ordinary cash entry of offered lands), which were put in market at the enhanced price prior to the 1st of January, 1861. Title may be acquired by purchase at public sale, or by ordinary "private entry," and in virtue of the pre-emption, homestead, timber-culture, and other laws.

PUBLIC OFFERING AND PRIVATE ENTRY.

Lands are sold at public sale after offering in the manner indicated in various statutes and official regulations, but no lands can be entered at private sale unless they have first been offered at public sale. The area of lands that can be so entered is small and they lie in isolated tracts in various States and Territories, except the total area of surveyed offered public lands in the five southern States of Alabama, Arkansas, Florida, Louisiana, and Mississippi, which can be purchased at any district land office in said States in legal subdivisions, having been duly

offered under the act of Congress of June 22, 1876, but all the public lands in these five States are now only subject to disposal under the homestead laws, all other disposals thereof having been suspended by joint resolution of May 18, 1888, as amended by joint resolution of July 16, 1888, pending certain proposed general public land legislation, or until the end of the present Congress.

It is contrary to the present policy of the government to sell the public lands at either public sale or ordinary private entry. But few lands have been offered at public sale for many years, except the general offerings in the Southern States above referred to, and all lands suitable for agriculture are under the existing policy held for disposal to actual settlers, so far as certain anomalies in subsisting legislation admits of.

METHODS OF ACQUIRING TITLE.

Title may be acquired by sale at auction, private entry or location, cash purchase, or entry under the several settlement and disposition laws by persons, associations, or corporations.

BY PURCHASE AT PUBLIC SALE.

This may be done where the lands are "offered" at public auction to the highest bidder, either pursuant to proclamation by the President or public notice given in accordance with directions from the General Land Office.

BY "PRIVATE ENTRY" OR LOCATION.

The lands liable to disposal in this manner are those which have been offered at public sale, which were not then sold, and which have not since been reserved or otherwise withdrawn from market. The area of such lands is small in the West, but almost the whole of the surveyed agricultural and other public lands lying in Alabama, Mississippi, Florida, Arkansas, and Louisiana can be purchased under the act of June 22, 1876, subject to the suspension above stated. In this class of offered and unreserved public lands the following steps must be taken to acquire title:

The applicant will first present a written application to the register for the district in which the land desired is situated, describing the tract he wishes to purchase, giving its area, form following:

No. ——. LAND OFFICE, AT ———,
(*Date*) ———, 18—.

I, ——— ———, of —— county, do hereby apply to purchase the —— of section ——, in township ——, of range ——, containing —— acres, according to the returns of the surveyor-general, for which I have agreed with the register to give at the rate of —— per acre.

——— ———.

I, ——— ———, register of the land office at ——, do hereby certify that the lot above described contains —— acres, as mentioned above, and that the price agreed upon is —— per acre.

——— ———, *Register.*

Thereupon the register, if the tract is vacant, will so certify (see bottom of blank above) to the receiver, stating the price, and the applicant must then pay the amount of the purchase-money.

RECEIVER'S RECEIPT.

The receiver will then issue his receipt for the money paid, in duplicate, giving to the purchaser a duplicate receipt, form following:

No. ——. RECEIVER'S OFFICE, AT ———,
(*Date*) ———, 18—.

Received from ——— ———, of —— county, ——, the sum of —— dollars and —— cents, being in full for the —— quarter of section No. ——, in township

No. ——, of range No. ——, containing —— acres and —— hundredths, at $—— per acre.
$ ——. ——— ———, *Receiver*

The register will then issue his certificate of purchase, on which patent is issued, form following:

No. ——. LAND OFFICE AT ———,
(Date) ———, 18—.

It is hereby certified that, in pursuance of law, ——— ———, of —— county, State of ——, on this day purchased of the register of this office the lot or —— of section No. ——, in township No. ——, of range No. ——, containing —— acres, at the rate of —— dollars and —— cents per acre, amounting to —— dollars and —— cents, for which the said ——— ——— ha— made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to receive a patent for the lot above described.

——— ———, *Register.*

At the close of the month the register and receiver will make returns of the sale to the General Land Office, from which, when the proceedings are found regular, a patent or complete title will be issued; and on surrender of the duplicate receipt such patent will be delivered, at the option of the patentee, either by the Commissioner at Washington or by the register at the district land office.

LOCATIONS WITH WARRANTS.

Application must be made as in cash cases, but must be accompanied by a warrant duly assigned as the consideration for the land; yet where the tract is $2.50 per acre, the party, in addition to the surrendered warrant, must pay in *cash* $1.25 per acre, as the warrant is in satisfaction of only so many acres at $1.25 per acre, or furnish a warrant of such denomination as will, at the legal value of $1.25 per acre, cover the rated price of the land. For example: A tract of 40 acres of land, held at $2.50 per acre, can be paid for with a warrant calling for 40 acres and the payment of $50 in cash, or by surrendering an eighty-acre warrant for the same—the 40 acres to be in full satisfaction for the said location; or a tract of 80 acres, rated at $2.50 per acre, can be paid for by the surrender of two eighty-acre warrants. If there is a small excess in the area of the tract over the quantity called for on the face of the warrant in any case, such excess may be paid for in money.

A duplicate certificate of location will then be furnished the party, to be held until the patent is delivered, as in cases of cash sales.

Registers and receivers of the local land offices are entitled to the following fees for their services in locating warrants, and the several amounts mentioned must be paid *at the time of location:*

For a 40-acre warrant, $0.50 each to the register and receiver; total, $1.
For a 60-acre warrant, $0.75 each to the register and receiver; total, $150.
For an 80-acre warrant, $1 each to the register and receiver; total, $2.
For a 120-acre warrant, $1.50 each to the register and receiver; total, $3.
For a 160-acre warrant, $2 each to the register and receiver; total, $4.

AGRICULTURAL COLLEGE SCRIP.

This scrip may be used—

First. In the location of land at "*private entry*," but when so used is only applicable to lands not mineral which may be subject to private entry at $1.25 per acre, and is restricted to a technical "*quarter section*"—that is, land embraced by the quarter section lines indicated on the official plats of survey; or it may be located on a *part* of a "quarter section," where such part is taken as in full for a quarter; but it cannot be applied to different subdivisions to make an area equivalent to a quarter section. The manner of proceeding to acquire title with

this class of paper is the same as in cash and warrant cases, the fees to be paid being the same as on warrants. The location of this scrip at private entry is restricted to *three* sections in *each township* of land, and *one million acres* in *any one State*.

Second. In payment of pre-emption claims, in the manner and under the same rules and regulations as govern the pre-emption of military land warrants; this, too, without regard to the limitation as to the quantity located in the township or in any State.

Third. In payment for homesteads commuted under section 2301 of the Revised Statutes of the United States.

There is but little of this scrip now outstanding, most of it having been located and satisfied.

SUPREME COURT SCRIP.

This scrip is issued under the acts of Congress of June 22, 1860, March 2, 1867, June 10, 1872, and January 28, 1879, in satisfaction of private land claims not satisfied "*in place*," the several certificates of which, representing various quantities of land, according to the circumstances of the respective cases, may be located in legal subdivisions on any public land subject to sale at private entry at $1.25 per acre, any small excess in such subdivisions over the area called for in the scrip to be paid for in money; or they may, under the second section of the act of January 28, 1879, be received from actual settlers in payment of pre-emption claims or in commutation of homestead claims, even where the same embrace lands subject to entry at the double minimum price of $2.50 per acre, in the same manner and to the same extent as is authorized by law in the case of military bounty land warrants.

SURVEYOR-GENERAL'S CERTIFICATE, ACT JUNE 2, 1858.

The fourth section of the act of January 28, 1879, declares that its provisions respecting the assignment and patenting of scrip and its application to pre-emption and homestead claims shall apply to the indemnity certificates of location provided for in the act of the 2d of June, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri," and for other purposes. The general principles hereinbefore laid down in regard to scrip issued under the act of June 22, 1860, are applicable to the class of certificates issued under the act of June 2, 1858.

A party desiring to locate a certificate of Supreme Court scrip or surveyor-general's certificate under the act of June 2, 1858, must make application to the register and receiver according to form prescribed as follows, viz:

ACTS OF JUNE 22, 1860, MARCH 2, 1867, AND JUNE 10, 1872.

REGISTER AND RECEIVER'S No. ——. } SCRIP, No. ———.

Scrip issued by virtue of a decree rendered on the —— day of ———, ——— or ——— legal representatives.

I, ——— ———, hereby apply to locate with the above described certificate ——— quarter of section No. ——, in township No. ——, of range No. ——, containing ——— acres, in the district of lands subject to sale at ———.

Witness my hand this —— day of ———, A. D. 187–.

Attest:

——— ———, *Register.*
——— ———, *Receiver.*

The location being allowed the applicant surrenders his scrip, and receives a duplicate certificate of entry, according to the following form, which he surrenders when he receives patent for the land, viz:

ACTS OF JUNE 22, 1860, MARCH 2, 1867, AND JUNE 10, 1872.

CERTIFICATE OF ENTRY.
REGISTER AND RECEIVER'S NO. ——.

UNITED STATES DISTRICT LAND OFFICE
AT ——, ——, 197–.

We certify that certificate of location No. ——, for ——— acres, issued by virtue of a decree rendered on the —— day of ———, by the Supreme Court of the United States, has this day been located by ——— ——— on the ——— quarter of section No. ——, in township No. ——, of range No. ——, containing ——— acres.

——— ———, *Register.*
——— ———, *Receiver.*

REVOLUTIONARY BOUNTY LAND SCRIP.

Issued under the act entitled "*An act making further provisions for the satisfaction of Virginia land warrants,*" approved August 31, 1852 (U. S. Stat. at L. vol. 10, page 143), in connection with the supplemental act, approved June 22, 1860, "*to declare the meaning*" of the said law of August 31, 1852 (U. S. Stat. at L., vol. 12, page 81).

This scrip is "receivable in payment of any lands owned by the United States subject to sale at private entry," and can be applied at the rate of $1.25 per acre, in the same manner as money, in all cases where the tract applied for contains the area specified in the scrip, or more; where it contains less, the excess of the scrip cannot be refunded in money, but may be denoted in the relinquishment as applicable to any other tract. It can also be used in commutation of homestead entries, and can be applied in payment of offered or unoffered lands which may be embraced by pre-emption entries.

The other varieties of scrip referred to in the synopsis above given, showing the manner in which public lands may be disposed of, under the 15th head, are located substantially in the same manner as bounty land warrants, but they are limited in quantity, high in price, and used principally for speculative purposes.

HOMESTEAD ACT AND AMENDMENTS.

The original homestead act of May 20, 1862, has been amended several times. The principal amendments were in the nature of extension of its privileges, and the limit of 80 acres of land of the double minimum class, $2.50 per acre, within certain road limits, has since been done away with by acts of June 8, 1872, March 3, 1879, July 1, 1879, and June 15, 1880; there now being but one class of agricultural lands, so far as regards the minimum quantity in homestead entries.

The act of June 8, 1872, was known as the soldiers' and sailors' homestead act. It gave honorably discharged soldiers and sailors from the Army and Navy of the United States 160 acres of land under the homestead act in any locality, and deducted from the five years' residence which was required to make title their term of service in the Army and Navy during the war of the Rebellion. One year's residence and cultivation, however, were necessary, and they have six months from the filing of application to make entry and commence settlement and improvement, and actual service in the Army or Navy is an equivalent to residence under certain conditions.

The soldiers' additional homestead provision was to give those soldiers who had had the benefit of the homestead act, to the extent of a quantity under 160 acres, an additional amount, so as to make their allowance 160 acres. The act of March 3, 1875, gave homesteads and patents for the same to certain Indians, which is changed by subsequent act of July 4, 1884, and allotment act of February 8, 1887.

By act of March 3, 1879, additional rights were given to homestead settlers on the public lands within railroad limits, and an act of the same tenor for the States of Missouri and Arkansas was passed July 1, 1879.

Special acts have frequently been passed favoring localities where crops have been destroyed by drought or insects, and the time of settlers has been extended for making proof and payment.

In making final proof of homestead entry, or in commuting under the eighth section of the homestead act (section 2301, R. S.,) upon lands situate in recognized mineral districts, a non-mineral affidavit, showing that there is no known mineral on the tract to be entered, is required of all claimants.

THE ESSENCE OF THE HOMESTEAD LAW AND ITS BENEFITS.

The essence of the homestead law and the amendments is embodied in the conditions of actual settlement, dwelling on, and cultivation of the soil embraced in an entry. It gives for a nominal fee, equal to $34 on the Pacific coast and $26 in the other States, to a settler—a man or woman over the age of twenty-one years, head of a family, or a single person above the age of twenty-one years, a citizen of the United States or having declared an intention of becoming such—the right to locate upon 160 acres of unoccupied public land in any of the public land States and Territories subject to entry at a United States land office, to live upon the same for a period of five years, and, upon proof of a compliance with the law, to receive a patent therefor free of cost or charge for the land. Full citizenship is requisite to obtain final title.

The present homestead law contains all of the beneficial features of the pre-emption act with the additions suggested by experience and the changed condition of national life. The eighth section of the act (2301 R. S.) contains the substance of the pre-emption act in the matter of purchase. If the locator desires to buy his homestead outright at the end of six months, he can, upon due proof, pay for his land at $1.25 or $2.50 per acre, as the case may be, which is called commutation of a homestead. It contains one feature as broad in its terms and as beneficial in its principle as the domain it covers. It is as follows:

"No lands acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor."

The homestead act is now the approved and preferred method of acquiring title to the public lands. It has stood the test of twenty-six years, and was the outgrowth of a system extending through nearly eighty years, and now, within the circle of a hundred years since the United States acquired the first of her public lands, the homestead act stands as the concentrated wisdom of legislation for settlement of the public lands. It protects the government, it fills the States with homes, it builds up communities, and lessens the chances of social and civil disorder by giving ownership of the soil, in small tracts, to the occupants thereof. It was copied from no other nation's system. It was originally and distinctively American, and remains a monument to its originators.

A homesteader must be the head of a family, male or female, a widow or a single person, male or female, over the age of twenty-one years, who are citizens of the United States, or who have declared their intention to become citizens (such cannot, however, make a *final* entry of a homestead until fully naturalized); also, to Indians who have abandoned their tribal relations, and have adopted the habits and pursuits of civilized life.

THE SEVERAL CLASSES OF HOMESTEAD ENTRIES.

The homestead laws recognize several classes of homestead entries, viz:

1. Settlement and cultivation homesteads under the original act of May 20, 1862, and amendments.
2. Adjoining farm homesteads, Sec. 2289, R. S. U. S.
3. Adddition homestead acts of March 3, 1879, July 1, 1879.
4. Soldier's homestead act of June 8, 1872, Sec. 2304 to 2309, U. S. R. S.
5. Additional homestead under act of June 8, 1872, sections 2306, 2307, U. S. R. S.

6. Indian homestead act of March 3, 1875, and acts of July 4, 1884, and February, 8, 1887.

ENTRIES—HOW MADE.

Homestead entries are received, in the manner herein set out, at any United States district land office. Homestead settlements can be made upon any of the public lands not otherwise specially reserved, and which have been declared subject to entry and location by law of Congress. No public lands, however, are open to settlement or sale until after Congress directs their survey, creates land offices therein, and orders how, when, and by what system they shall be disposed of.

HOW PAID FOR.

Cash is received in payment of fees. In the case of a commuted homestead, the commutor can use cash, military bounty land warrants, agricultural college or private land claim scrip, under the act of January 28, 1879.

THE HOMESTEAD PRIVILEGE.

The laws extending the homestead privilege, embraced in sections 2289 to 2312 of the Revised Statutes, give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on *surveyed* lands. This right was limited by section 2289 of the Revised Statutes, as the maximum quantity, to 160 acres of the class of ordinary public lands held by law at $1.25 per acre, when disposed of to cash purchasers, or 80 acres of the class of lands embraced in the alternate sections, along the lines of railroads or other works of internal improvement, reserved to the United States in acts of Congress making grants of land in aid of the construction of such works, and the price thereof increased to $2.50 per acre. By act of Congress of March 3, 1879, it was enacted that from and after its passage "the *even* sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler," thus doing away in this class of entries with the distinction between ordinary minimum and double minimum lands, or lands held at $1.25 per acre and lands held at $2.50 per acre, which had existed under section 2289 of the Revised Statutes of the United States, so far as the double minimum lands may be found in *even* sections within the limits of land grants for railroads or military roads. These provisions did not extend so as to embrace any double minimum lands in *odd*-numbered sections, or in the limits of grants for any other description of public works. By act of July 1, 1879, the same provisions were extended to the *odd* sections in the States of Missouri and Arkansas, where the *odd* sections were reserved to the United States, the price of the lands therein enhanced, and the *even* sections granted for the purposes of improvement. Both acts were inoperative in any case where the *even* sections were granted, the *odd* being reserved, and not within the States of Missouri and Arkansas, as in Alabama and Mississippi; but the double minimum lands in the two last-mentioned States having been brought into market at the enhanced price prior to the 1st January, 1861, are now reduced to $1.25 per acre under the third section of the act of June 15, 1880.

PROCEDURE IN DISTRICT LAND OFFICES.

To obtain a homestead the party must, in connection with his application in prescribed form, make an affidavit in form prescribed before the register or receiver, that he is over the age of twenty-one or the head of a family; that he is a citizen of the United States, or has declared his intention to become such; and that the entry is made for his exclusive use and benefit, and for actual set-

tlement and cultivation; and must pay the legal fee and that part of the commissions which is payable when the entry is made, as given in tables following, viz:

FEES PAYABLE WHEN APPLICATION IS MADE.

The land office fees and commissions, *payable when application is made*, are as follows:

In Alabama, Arkansas, Dakota, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, and Nebraska—

Land at $2.50 per acre.		*Land at $1.25 per acre.*	
For 160 acres	$18 00	For 160 acres	$14 00
For 80 acres	9 00	For 80 acres	7 00
For 40 acres	7 00	For 40 acres	6 00

In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming—

Land at $2.50 per acre.		*Land at $1.25 per acre.*	
For 160 acres	$22 00	For 160 acres	$16 00
For 80 acres	11 00	For 80 acres	8 00
For 40 acres	8 00	For 40 acres	6 50

WHEN PERSONAL APPEARANCE AT THE DISTRICT LAND OFFICE MAY BE DISPENSED WITH.

Where the applicant has made actual settlement on the land he desires to enter, but is prevented by reason of bodily infirmity, distance, or other good cause, from personal attendance at the district land office, the affidavit may be made before the clerk of the court for the county within which the land is situated, under section 2294 of the Revised Statutes.

On compliance by the party with the foregoing requirements, the receiver will issue his receipt for the fee and that part of the commissions paid (in form prescribed), a duplicate of which he will deliver to the party. The matter will then be entered on the records of the district office and reported to the General Land Office.

SETTLEMENT AND RESIDENCE.

An inceptive right is vested in the settler by such proceedings, and upon faithful observance of the law in regard to settlement and cultivation for the continuous term of five years, and at the expiration of that time, or within two years thereafter, upon proper proof to the satisfaction of the land officers (forms prescribed), and payment to the receiver of that part of the commissions remaining to be paid, as given in tables below, the receiver issuing his receipt therefor, the register will issue his certificate (form prescribed), and make proper returns to the General Land Office as the basis of a patent or complete title for the homestead. And an inceptive right to a homestead may now be acquired, and the period of continuous residence and cultivation begin to run, prior to the date of formal entry at the district land office, by the party making actual settlement on the tract desired, provided the entry at the district office is made within the prescribed period thereafter as in pre-emptions. The third section of the act of May 14, 1880, places homestead settlers on public lands on the same footing with pre-emption settlers under existing laws. This section protects the claim of an actual settler upon unsurveyed land not yet open to entry at the district office, provided he shall make homestead entry of the land within three months from the filing of the township plat of survey in the district land office, the same as the pre-emptor is now protected by filing his declaratory statement within the same period; and if the homestead settler shall

fully comply with the law as to continuous residence and cultivation, his settlement defeats all claims intervening between its date and the date of filing his homestead application. In making final proof, his five years of residence and cultivation will commence from date of actual settlement.

NOTE.—The law is specific in requiring final proof to be made within *two* years after the expiration of the five years from day of entry.

FEES PAYABLE AT TIME OF MAKING FINAL PROOF.

The land office commissions, *payable at time of making final proof*, are as follows:

In Alabama, Arkansas, Dakota, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, and Nebraska—

Land at $2.50 per acre.		*Land at $1.25 per acre.*	
For 160 acres	$8 00	For 160 acres	$4 00
For 80 acres	4 00	For 80 acres	2 00
For 40 acres	2 00	For 40 acres	1 00

In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming—

Land at $2.50 per acre.		*Land at $1.25 per acre.*	
For 160 acres	$12 00	For 160 acres	$6 00
For 80 acres	6 00	For 80 acres	3 00
For 40 acres	3 00	For 40 acres	1 50

The fees for reducing testimony to writing in making final proof are, in the former States, 15 cents, and in the latter States and Territories, 22½ cents for each 100 words. No other land-office fees than those stated are payable or allowable in homestead cases.

FINAL PROOF—HOW MADE.

Under the act of Congress of March 3, 1879, any settler desiring to make final proof must first file with the register of the proper land office a written notice of his intention to do so. Such notice must describe the land claimed, and the claimant must give the names and residences of the witnesses by whom the necessary facts as to settlement, residence, cultivation, etc., are to be established, and state the time when and the officer before whom the proof will be made. (Form prescribed.)

The filing of such notice must be accompanied by a deposit of sufficient money to pay the cost of publishing the notice to be given by the register.

Upon the filing of the notice by the applicant, the register shall publish a notice of such application once each week for a period of thirty days, in a newspaper which he shall disignate, by an order written on said application, as published nearest the land described in the application, and he shall also post said notice in some conspicuous place in his office for the same period. A compliance with the law will require the notice to be published weekly five times, because four weekly publications would not cover a period of thirty days.

The notice to be given by the register must state that application to make final proof has been filed; the name of the applicant; the kind of entry, whether homestead or pre-emption; a description of the land, and the names and residences of the witnesses, also the time and place for making proof as stated in the application. (Form prescribed.)

To save expense, the register may embrace two or more cases in one publication, when it can be done consistently with the legal requirements of publication, in a newspaper published nearest the land, as per form prescribed.

When proof is filed that notice has been given in the manner and for the time required by said act of Congress, the applicant will be entitled to make final proof, as provided by law at time and place given in the notice.

The proof that requisite notice has been given will be the certificate of the register that the notice of the application (a copy of which should be annexed to the certificate) was posted by him in a conspicuous place in his office for a period of thirty days (form prescribed) and the affidavit of the publisher or foreman of the newspaper that the notice (a copy of which notice must be annexed to the affidavit) was published in said newspaper once each week for five successive weeks.

The proof of the publication and posting of the notice must be filed and preserved by the register, to be forwarded to the General Land Office with the final papers when issued.

HOW PROOF MAY BE MADE OTHER THAN AT DISTRICT LAND OFFICE.

In making final proof the homestead party may appear in person at the district land office with his witnesses, and there make the affidavit and proof required in support of his claim, or he may proceed under the act of March 3, 1877. This prescribes that the party desiring to avail himself thereof must appear with his witnesses before the judge of a court of record of the county and State, or district and Territory, in which the land is situated, and there make the final proof required by law, according to the forms prescribed, which proof, duly authenticated by the court seal, is required to be transmitted by the judge or the clerk of the court to the register and receiver, together with the fee and charges allowed by law. See 3d, 10th, and 12th subdivisions of section 2238 of the Revised Statutes of the United States.

The judge being absent in any case, the proof may be made before the clerk of the proper court. The fact of the absence of the judge must be certified in the papers by the clerk acting in his place.

If the land in any case is situated in an unorganized county, the statute provides that the party may proceed to make the proof, in the manner indicated, in any adjacent county in the State or Territory. The fact that the county in which the land lies is unorganized, and that the county in which the proof is made is adjacent thereto, must be certified by the officer.

In any case where the final proof shall be transmitted to the register and receiver, as contemplated in this act, and the full amount of money due shall be paid, they will carefully examine the proof, and, if no objection appears, proceed to issue the receipt and certificate in the case, and make proper returns to the General Land Office as the basis of a patent or complete title for the homestead, pursuant to existing laws. If any objection appears they will promptly notify the party and advise him of his rights in the matter

But the published notice must in every case show when and before what officer the proof will be made.

ENTRIES OF DECEASED OR INSANE PERSONS—HOW COMPLETED.

Where a homestead settler dies before the consummation of his claim, the widow, or in case of her death the heirs, may continue settlement or cultivation, and obtain title upon requisite proof at the proper time. If the widow proves up, title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them.

Where both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States, or the patent will issue to the infants on proof of settlement or cultivation for the prescribed period.

Under the act of Congress of June 8, 1880, parties whose homestead entries were regularly made according to law, and who afterwards became insane, may be represented for making final proof and perfecting their entries by any person whose authority to act for them during their disability shall be duly certified

under seal of the proper probate court. This act will not be construed to cure failure to comply with the law where the failure occurred prior to the insanity of the claimant. Final proof will not be received until the expiration of the five years, but proof of residence and cultivation will be required to cover only the period prior to such insanity. If a claimant becomes insane *after* expiration of the period of residence, etc., the act will be construed to permit his guardian to act for him within the time in which he might have made final entry himself. The proof must show the regularity of the entry, and therefore that the claimant was either a citizen or had filed his declaration to become one according to the naturalization laws at date of entry, but further proof will not be required as to citizenship.

SALE OF HOMESTEAD NOT RECOGNIZED.

The sale of a homestead claim by the settler to another party before completion of title is not recognized by the United States, and vests no title or equities in the purchaser. In making final proof, the settler is by law required to swear that no part of the land has been alienated, except as provided in section 2288 of the Revised Statutes, for church, cemetery, or school purposes, or the right of way of railroads. So far, however, as regards homestead entries made prior to the 15th June, 1880, for lands properly subject to such entry, the second section of the act of Congress of that date provides that the persons to whom the rights of those having so entered for homesteads may have been attempted to be transferred by *bona fide* instruments in writing may entitle themselves to said lands by paying the government price therefor less the fee and commissions paid on the entries.

ABANDONMENT OF HOMESTEAD.

As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim cannot thereafter make a second entry; although where an entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again, if in other respects entitled, and may have the fee and commissions paid on the canceled entry refunded on proper application under the act of June 16, 1880.

DUTIES OF REGISTERS AND RECEIVERS ON RELINQUISHMENTS BEING FILED.

By the first section of the act of May 14, 1880, it is enacted "that when a preemption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry, without further action on the part of the Commissioner of the General Land Office." The district land officers are instructed not to accept or act upon any relinquishment, unless made before them, which has not been duly subscribed by the claimant on the back of his duplicate receipt, and acknowledged, witnessed, and executed in the manner requisite under laws of the State or Territory in which the land is situated for the valid transfer of real estate. In case of the loss of the duplicate receipt an affidavit of such loss must accompany the written relinquishment.

Immediately upon a relinquishment, duly executed as above, being received at their office, the register will note on the relinquishment, over his signature, the day and hour of its receipt, will write the words "canceled by relinquishment" (giving date) opposite the record of the entry in the tract book, the register of entries, and the register of receipts, and draw a line over the number of the entry on the township plat.

On Monday of each week they are directed to transmit to the General Land Office all the relinquishments which have been accepted by them during the preceding week. When the relinquishment shall have been received and noted as above, they will hold the land embraced in the relinquished entry as subject to settlement or entry by the first legal claimant.

ABANDONMENT OF HOMESTEAD—CONTESTS.

Where application is made to contest the validity of a homestead entry on the ground of abandonment, the party must file his affidavit with the district land officers, setting forth the allegations on which his application is founded describing the tract and giving the name of the settler. Upon this the officers will set apart a day for hearing, giving all the parties in interest due notice of the time and place of trial.

In cases of inability to make personal service of the notice, and when it becomes necessary to serve it by publication, the act of Congress of June 3, 1878, directs that the same shall "be printed in some newspaper in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land." After the trial the land officers will transmit the testimony, with their joint report, for the action of the General Land Office, according to Rules of Practice approved August 13, 1885.

The contestant must defray the expenses incident to such a contest if brought under the second section of the act of Congress of May 14, 1880, before referred to, and if he succeeds in the contest, and procures the cancellation of the entry, he will be notified thereof, and for a period of thirty days from such notice will be allowed a preference right to institute a claim to the land over any other person who may desire to do so.

PRE-EMPTION FILING MAY BE CHANGED INTO A HOMESTEAD ENTRY.

When an individual has made settlement on a tract and filed his pre-emption declaration therefor he may change his filing into a homestead if he continues in good faith to comply with the pre-emption laws until the change is effected; and by an act of Congress of May 27, 1878, the time during which the party has resided upon and claimed the land as a pre-emptor will be credited upon the period of residence and cultivation required under the homestead law. In so doing he is required in his first homestead affidavit to set forth the fact of a previous pre-emption filing, the time of actual residence thereunder, and the intention to claim the benefit of such time as provided for in the act. In making final proof on his homestead entry he is required, in addition to the usual affidavit and proof, to make the prescribed "pre-emption homestead affidavit." But he is entitled to the same credit for such time under his homestead entry alone by act of May 14, 1880, if there is no adverse claim.

HOMESTEAD MAY BE COMMUTED AT THE END OF SIX MONTHS WITH CASH, SCRIP, OR LAND WARRANTS.

If the homestead settler does not wish to remain five years on his tract, the law permits him to pay for it with cash or warrants or agricultural college scrip, upon making proof of settlement and cultivation for a period of not less than six months to the time of payment; or payment may now be made with private claim scrip under the act of January 28, 1879.

This proof of actual settlement and cultivation must be the affidavit of the party (in prescribed form) made before the district officers, in addition to the testimony usual in making final homestead proof (in prescribed form), or the party may, under the act of June 9, 1880, make the required affidavit before the clerk of any court of record of the county and State or district and Territory in which the land is situated; or if in any unorganized county, he may make such affidavit in a similar manner in any adjacent county in the State or Territory.

ACT OF JUNE 15, 1880.

A further right of making cash payment for lands originally entered as a homestead accrues under the act of June 15, 1880 (21 Stat., 237), which allows any party who had entered a homestead prior to that date (or any person to

whom such party may have attempted to transfer his right by a *bona fide* instrument in writing) to pay the government price (less the fee and costs) for the land covered by such entry, provided it was originally subject to entry, and provided it had not been subsequently entered by any other person under the provisions of law. (Maughn, 1 L. D., 25; Miller, *ibid.*, 57; Weaver, *ibid.*, 53; Bishop, *ibid.*, 69). He cannot, however, be permitted to exercise such right so as to bar the preferred right of a contestant under act of May 14, 1880 (21 Stat., 140), after contest initiated. (Freise *vs.* Hobson, 4 L. D., 580.)

In case the original homestead party applies to purchase, if he has lost his duplicate receipt, he must make oath that he has not, prior to the passage of said act, transferred nor attempted to transfer his homestead rights under said entry, and that he has not assigned his right to receive the payment of the fee, commissions, or excess payment paid thereon. The register will certify to the receiver the amount to be allowed as credit for fee and commissions already paid, the applicant first making oath that said fee and commissions have not been repaid, and that no application for such repayment has been made. In case he had attempted to transfer his right he may still be permitted to purchase, upon filing proof of the consent of the person to whom such transfer was attempted to be made.

ATTEMPTED TRANSFER OF HOMESTEAD RIGHTS.

In case a party to whom a homestead settler has attempted to transfer his right desires to take advantage of the act, the register and receiver will require the instrument in writing by which it was sought to transfer such homestead right to be filed, together with the best evidence attainable of the *bona fide* character of the transfer, including the affidavit of the party who seeks to purchase.

In case of doubt as to the propriety of allowing the application to purchase, they should refer all the papers to the General Land Office, accompanied by an expression of their opinion based upon a full recital of the facts.

FORM OF ENTRY.

The application must be made as in ordinary cash entry (in form prescribed), and must be accompanied by the receiver's duplicate homestead receipt, or, if that has been lost or destroyed, by an affidavit setting forth such fact, and giving the register's and receiver's number and date of the original homestead entry. It must also be stated in the application that the same is made under the second section of the act of June 15, 1880.

Entries under said second section will receive current register's and receiver's numbers in the regular cash series, and will be returned in the same manner as in other cases of cash entry, referring, however, in each instance, on the cash abstracts, certificates, and receipts, to the date of the act authorizing the entry, the register's and receiver's number of the original homestead application, and the amount allowed as credit for fee and commissions, as follows: "Act June 15, 1880. Original homestead entry No. —. Credit for fee and commissions, $————."

Final homestead proof not being required in these cases, no advertisement or notice of intention to make final proof is necessary, and no final homestead fees are to be paid or collected,

Warrants and scrip made receivable by law for lands subject to sale at private entry, or in commutation of homestead or pre-emption rights, are receivable for lands purchased under this act.

Where land purchased under this act is paid for with warrants or scrip there would be no claim for repayment on account of the fee and commissions paid on the original homestead entry; and the existing rule must be observed, that where the value of warrants or scrip exceeds that of the lands entered therewith no payment on account of such excess is authorized, but the warrant or scrip applied must be fully surrendered.

ADJOINING FARM HOMESTEADS—HOW ENTERED.

There is a class of homesteads designated as "adjoining farm homesteads." In these cases the law allows an applicant *owning* and *residing* on an *original* farm to enter other land lying contiguous thereto, which shall not, with such farm, exceed in the aggregate 160 acres. Thus, for example, a party owning or occupying 80 *acres* may enter 80 additional, without regard to price, whether held at $1.25 or $2.50 per acre; or, if owning 40 acres, he may enter 120 acres additional of land held at $1.25 per acre, or of land held at $2.50 per acre, where 160 acres is now the maximum quantity of double minimum land subject to homestead entry, but cannot exceed the maximum of 80 acres where the land proposed to be entered is held at $2.50 per acre, and where 80 acres is still the legal maximum in reference to that class of lands, under section 2289 of the Revised Statutes as modified by the acts of Congress of March 3, 1879, July 1, 1879, and June 15, 1880, before mentioned.

In applying for an entry of this class the party must make affidavit describing the tract which he owns and upon which he resides as his original farm. In making final proof it is not required that he should prove actual residence on the separate tract entered; but if he does not it must appear from the proof adduced that he has continued for the period required by law to reside upon and cultivate the original farm tract, making use of the entered tract as a part of the homestead.

SOLDIERS' HOMESTEADS.

A Union soldier or sailor of the late war, or his widow, making entry, is entitled to a deduction from the five years of the length of time (not exceeding four years) of his military service. But the soldier (or his widow, as the case may be,) must actually reside on the land at least one year before final proof can be made.

In case of the death of the soldier, and the death or remarriage of the widow, the minor children of the soldier, by a duly-appointed guardian, are entitled to the privileges of the father.

Neither the guardian nor the minor children are required to reside upon the land, but the same must be cultivated and improved for the period of time during which the father would have been required to reside upon the tract.

The soldier may file a declaratory statement for a tract of land which he intends to enter under the homestead laws. The fee is $2, except in the Pacific States and Territories, where the fee is $3.

This statement may be filed either personally or by an agent, and the soldier is thereafter allowed six months within which to make his entry and commence his settlement and improvement.

The entry can be made only by the soldier in person at the local land office, and he must commence his settlement on the land within six months after his filing, and must continue to reside on the land and cultivate it for such period as, added to his military service, will make five years. But he must actually reside upon the land at least one year, whatever may have been the period of his military service.

Entries cannot be made for a soldier by an agent or attorney.

After a declaratory statement has once been filed, whether by an agent or otherwise, the soldier cannot file again. His rights are exhausted by the first filing, and if he does not, within six months, make his personal entry at the land office, and commence his settlement as required by law, he obtains no right to the land, and his homestead right is exhausted by the filing.

A soldier's homestead declaratory statement for a tract of land does not prevent anybody else from making an entry of the same land, subject to such right as the soldier may acquire by virtue of actual residence on the land and full compliance with law. If the soldier does not establish his residence on the tract as required, the next comer may take the land.

Soldiers are not entitled to land, nor to bounty land warrants, for their military service in the late war, nor can title to land be obtained for them by agents

or attorneys. All representations to the contrary are false, and soldiers and sailors are warned against imposition by parties who offer to locate land for them, or to sell their rights for them.

SOLDIERS' AND SAILORS' ADDITIONAL HOMESTEAD ENTRIES.

Section 2306 of the Revised Statutes of the United States provides that any person entitled to make a homestead entry under section 2304 (providing for the benefit of soldiers and sailors of the late war), who had, prior to June 22, 1874, made a homestead entry of less than 160 acres, may enter an additional quantity of land sufficient to make, with the previous entry, 160 acres.

The right granted by this section, and extended by section 2307 to the widow, if unmarried, or otherwise to the minor orphan children by proper guardian, is a *personal* one and is not transferable, nor subject to assignment or lien, nor can it be exercised by another. It can lawfully be exercised only by the soldier or sailor, or by the widow or guardian, as the case may be, in his or her own proper person.

The practice which formerly prevailed of certifying the additional right as information from the records of the General Land Office and permitting the entry to be made by an agent or attorney is discontinued.

The following regulations will hereafter be strictly observed:

1. The party desiring to make an additional entry, and being entitled thereto, must present himself at the land office of the district in which the land he wishes to enter is situated, and make his application in the same manner as in case of an original entry. (Form prescribed.)

2. In addition to the usual homestead affidavit, the claimant must make a special affidavit showing—

First. His identity as the soldier he represents himself to be, reciting his military service, and stating his present residence and post-office address.

Second. The facts, in detail, respecting his right to make the additional entry, and that he has fully complied with the provisions of the homestead laws in the matter of residence upon and cultivation and improvement of his original entry, and whether or not he has proved up his claim and received a patent for the land.

Third. That he has not in any manner previously exercised his additional right either by entry or application, or by sale, transfer, or power of attorney, but that the same remains in him unimpaired.

3. The foregoing affidavits must be sworn to *and subscribed* in the presence of the register or receiver. This rule must be strictly adhered to in order to avoid false personation; and applications and affidavits presented to the register and receiver with signatures attached *will not be received.*

4. These rules will not be deemed to apply to cases where the additional right has heretofore been certified by the General Land Office, nor to cases now pending, or filed in that office prior to March 16, 1883.

ADDITIONAL HOMESTEAD ENTRIES IN RAILROAD LIMITS.

The act of March 3, 1879, in addition to its provisions already referred to, provides, *first*, that "any person who has under existing laws taken a homestead on any even section within the limits of any railroad or military road land grant, and who by existing laws shall have been restricted to 80 acres, may enter under the homestead laws an additional 80 acres adjoining the land embraced in his original entry, if such additional land be subject to entry," without payment of fees and commissions, and that "the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional entry, and shall be deducted from the five years' residence required by law," with the proviso, however, that in no case shall patent issue "until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land" em-

braced in his additional entry "at least one year." The act of July 1, 1879, is similar in effect as to lands in Arkansas and Missouri.

Upon any party proposing to enter an additional tract under these provisions, the register and receiver will require him to submit proof which shall set forth the particulars of his existing entry and of his compliance with the legal requirements regarding the same, according to the form provided for use in making final proof, 4–369, as also to swear that he did not serve in the Army or Navy of the United States during the late civil war for ninety days or more, as the class of persons who thus served were not restricted to eighty acres under previously existing laws, and, therefore, are not entitled to the benefits of the acts referred to, and to make homestead application and affidavit according to forms prescribed. The required proof is found necessary to ascertain the *status* of the original entry at the date of application for the benefit of the said acts, and also the credit for residence and cultivation to which the party who made the same may be entitled, according to their provisions, in perfecting his title under the additional or new entry to be allowed, without waiting the arrival of the time when final proof on the latter is to be made. With reference, however, to cases in which final proof on the original entries has been made and the certificates issued, the requirement of proof as herein directed may be omitted, and in lieu thereof a reference made in reporting the case to the certificate issued, giving its number and date, so that it may be identified on the records of this office.

These requirements having been complied with, the register and receiver will then, if they find his original entry to be *intact* on their records, whether patented or not, and if no objection appears in any respect, allow the entry applied for, note the same on their records, giving it the proper number in the regular homestead series, and report it with their monthly homestead returns, indicating its character as an additional entry under said act on the margin of their monthly abstracts, with a reference to the original entry by its number, and the description of the land. The money columns in the abstracts will of course be left blank, since there will be no fees and commissions paid.

In this class of entries the party, if still resident on the original entry tract, will not be required to remove therefrom to the additional entry tract in order to make a new residence on the latter, as the two forming one body of land, residence on either will be regarded as satisfying the legal requirement; but in making final proof on the additional entry the party must show such residence, with occupancy and cultivation of the tract taken as additional under said act, for five years from the date of entry thereof, less the time to be deducted on account of residence and cultivation on the original entry, which shall not exceed four years in any case.

[The act of May 6, 1886, dispenses with the requirement of any proof in this class of additional entries where the proof is satisfactory on the original entry.]

Second. The acts further provide that should the person so elect he may, instead of making an additional entry, "surrender his existing entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made," with the same provisions, as regards fees and commissions not being required, and requiring settlement and cultivation, occupation, and residence, as have been already stated with regard to additional entries. In case of any party electing to surrender his entry under this act, the register and receiver will receive his relinquishment, which shall specify for what purpose made, and be accompanied by the duplicate receipt issued for the relinquished entry, or by a statement under oath showing a good reason for its absence, report the case in a special letter to the General Land Office, and await instructions before proceeding further in the matter. Relinquishments may be made in the same manner hereinbefore provided for.

Parties now contemplating the making of homestead entries for the first time have no interest in the acts of March 3, 1879, and July 1, 1879, as they affect only such as made entries prior to their respective dates.

SUFFERERS FROM GRASSHOPPERS.

The first section of the act of July 1, 1879, "for the relief of settlers on the public lands in districts subject to grasshopper incursions," provided that homestead and pre-emption settlers on public lands where crops have been destroyed or seriously injured by grasshoppers may leave and be absent from said lands for a period not to exceed one year continuously, under such rules and regulations as the Commissioner of the General Land Office shall prescribe, being allowed afterward to resume and perfect their settlement as though no such absence had occurred. The second section provided that the time for making final proof and payment by pre-emptors whose crops had been destroyed or injured as aforesaid might, at the discretion of the Commissioner, be extended for one year. (21 Stat., 48.)

The proof required in the first section of said act should consist of the affidavit of the claimant, giving the particulars of the alleged destruction or serious injury of crops by grasshoppers, and the affidavits of two or more witnesses corroborative thereof, and should be submitted at time of making final proof through the register and receiver of the proper district land office. The particulars given should be such as to admit of a decision whether the absence was justified by law or not, and should indicate at what time the party left the land and when he resumed his settlement.

A settler desiring to take advantage of the provisions of this act should file with the register and receiver a written notice of intended absence, bearing his own signature, and embracing a statement that he had sustained loss or failure of his crops. This should be noted on the tract books, for the protection of the claimant and the information of parties who might otherwise make settlement and attempt to obtain title.

Settlers desiring the extension of time provided for in the second section of the act should apply therefor through the same officers, the application to be supported by the same character of proof.

The affidavits required in cases arising under said act should be made before the register or receiver of the district land office, or before any officer using a seal and authorized to administer oaths.

HOMESTEAD RULINGS.

The claim of the settler is initiated by entry of the land. *1 L. D., 30; No. 1637; but now may be by settlement; see Nos. 271, 626.

Right of entry protected by the act of May 14, 1880. 1 L. D., 83; No. 271.

Laws liberally construed. 1 L. D., 63; No. 252.

Entry will be canceled at the expiration of seven years if proof is not submitted after due notice. 1 L. D., 112; No. 852.

Right of one now in military or naval service to take, dependent upon his ability to comply with the requirements of the law. 1 L. D., 98; No. 288.

Order of succession on death of entryman. 1 L. D., 64, 86; Nos. 253, 276.

Entryman cannot by will defeat the rights of the minor children. 1 L. D., 86; No. 276.

Devise of, must be of the land and not of the proceeds from the sale thereof. 1 L. D., 64; No. 253.

A devisee is entitled to the same privileges that would descend to the heirs. 1 L. D., 47; No. 236.

Heirs of deceased entryman must show cultivation for the statutory period. 1 L. D., 636; No. 213.

Entryman cannot by will defeat the statutory succession of the minor children. 1 L. D., 41; No. 230.

Right of commutation not defeated by failure to establish residence within six months after entry. 1 L. D., 39; No. 229; see also Nos. 501, 518; 556, 598.

Right conferred upon Indians by act of March 3, 1875. 1 L. D., 491; No. 1040; see also Nos. 75, 79, 651, 657, 663, 665.

*[The references are to the volume and page of Departmental Land Decisions and the numbers of decisions in Matthews and Conway's Digest.]

Entry by the sister of a receiver, is not necessarily invalid. 2 L. D., 105; No. 301.

By the wife of an insane person as head of a family, her husband being civilly dead. 2 L. D., 102; No. 355.

Not by a married woman. 2 L. D., 112; No. 300.

Where husband and wife settled on and improved a tract, and afterwards the wife made entry of it, under a mistake as to the law, said entry is canceled, with privilege to the husband, if qualified, to enter in his own name, and to have his right relate back to date of settlement. 2 L. D., 112; No. 341.

By a widow, in her own right, whilst continuing to cultivate the homestead of her deceased husband. 2 L. D., 169; No. 293.

By a minor, as head of a family. 2 L. D., 82; No. 409.

By one, in his own right, who has already made final proof, as the minor orphan child of a deceased soldier. 2 L. D., 99; No. 302.

By one whose former entry, made prior to his majority, was canceled. 2 L. D., 113; No. 274.

A second entry is allowed, where the land first entered fails to produce crops by reason of lack of rainfall or unfitness of soil. 2 L. D., 171; No. 339.

By one whose prior entry was canceled, on his own request, because the land covered by it was occupied and improved by family of a settler, who had become insane after settlement without applying for it. 2 L. D., 102; No. 335.

Not by one who relinquished a homestead because of the ravages of grasshoppers. 2 L. D., 141; No 382.

By one who went upon the land as the tenant of another, where there is no fraud, and where the latter has made no claim to it and has absented himself. 2 L. D., 135; No. 356.

By one who had filed on the land; such an entry operates as a waiver and withdrawal of the pre-emption claim. 2 L. D., 504; No. 1435.

A deserted wife or child may not make final homestead proof, or commute, or purchase under act June 15, 1880, or obtain patent, in her or his own right, by virtue of the husband's or father's entry. 2 L. D., 78; No. 360.

Rules to be observed in cases of desertion:

1. If wife maintains her residence, no one but her shall be heard to allege desertion, in proof of change of residence or abandonment, for seven years after entry.

2. If she, within said seven years, proves desertion, she may enter the land in her own name, if the head of a family, or if she has the right to acquire real property as *feme sole*.

3. If she does not make such entry she may make final proof in his name, as his agent, with her own affidavit to non-alienation; the entry to be submitted to the Board of Equitable Adjudication.

4. She may, as his agent, commute the entry or purchase under Sec. 2, Act of June 15, 1880, and new entry shall be referred to Board of Equitable Adjudication.

5. Where entryman's wife is deceased, the foregoing rules shall apply to his child, not twenty-one, who is a head of a family. 2 L. D., 81; No. 360.

A woman deserted her husband, the homestead entryman, who devised the land to his daughter, resident on it as the head of a family; the widow is equitably barred. 2 L. D., 82; No. 409.

Additional entry in railroad limits by a deserted wife is illegal. 2 L. D., 777; No. 344.

Entry allowed contestant while his contest is pending, should be canceled; (see 2 L. D., 244). 2 L. D., 55; No. 305.

May not be made by a third person pending an appeal from the rejection of a prior application. 2 L. D., 270; No. 1826.

Where priority of a settlement is alleged, under Sec. 3, Act of May 14, 1880, there may be a second entry, subject to an adjustment of the conflicting claims. 2 L. D., 146; No. 243.

May be made by one relinquishing a claim (pre-emption), pending contest against it illegally instituted (by a party not in interest). 2 L. D., 220; No. 1092; but see Rule 1 of Practice (new rule), approved August 13, 1885.

By contestant of a timber-culture claim is confined to land in contest, unless less than 160 acres, when contiguous land may be taken; by contestant of a homestead claim may be made on a portion of the land in contest and adjoining land. 2 L. D., 289; No. 348; but see No. 135 overruling No. 1785 (Bundy).

May not be made on a tract withdrawn for the purpose of a sale under Sec. 2455, R. S. 2 L. D., 242; No. 374.

Not allowed on land improved by another and in his possession by color of law. 2 L. D., 44; No. 327.

Under the law it is the entry which reserves the land. 3 L. D., 131; No. 1450.

The right exhausted with one entry. 3 L. D., 57; No. 1112.

Entryman may bring action for trespass prior to final proof. 3 L. D., 54; No. 423.

Land subject to pre-emption is subject to. 3 L. D., 230; No. 438.

And pre-emption claim cannot be maintained at the same time. 3 L. D., 226; No. 437.

Not maintained through the occupancy of a tenant. 3 L. D., 363; No. 439.

Cannot be made of land occupied in good faith by others. 3 L. D., 363; No. 439; but see Nos. 490, 578, 638, 1054, 1108, 1140.

Entry must be canceled on death of entryman without heirs. 3 L. D., 384; No. 450.

Quit-claim deed made prior to original entry, for small part of claim, does not impeach good faith. 3 L. D., 284; No. 414.

Contract to convey after patent does not defeat right of entry. 3 L. D., 284; No. 414.

Entry made through agent by a person in the naval service is within the provisions of Sec. 2308 R. S. 3 L. D., 446; No. 1466.

A deserted wife can assert no right of entry based upon the canceled entry of her husband, but is allowed to enter in her own right. 3 L. D., 188; No. 431.

Circular instructions as to proceedings to be observed in case of Indian applying to make, under act of July 4, 1884. 3 L. D., 91; No. 79.

The third section of the act of May 14, 1880, is not to be construed as destroying any vested right theretofore acquired. 3 L. D., 131; No. 1450.

The act of May 14, 1880, does not apply to a settlement upon lands not subject to entry. 3 L. D., 176; No. 754.

Law must be construed as a whole. 4 L. D., 400, 580; Nos. 514, 550.

No rights were taken away by the enactment of sections 2304 and 2305 Revised Statutes. 4 L. D., 399; No. 514.

And pre-emption claim cannot be maintained at the same time. 4 L. D., 26, 462; Nos. 479, 526.

Total failure to comply with the law not excused by poverty. 4 L. D., 185; No. 488.

Claim not initiated while holding as a tenant. 4 L. D., 259; No. 498.

One in military service may take, on showing due compliance with the law. 4 L. D., 399; No. 514.

Allowed to one who has already made pre-emption entry. 4 L. D., 441; No. 522.

Widow and heirs required to cultivate but not to reside on claim. 4 L. D., 433; No. 520.

Intention to wrong another evidence of bad faith. 4 L. D., 159; No. 490.

Right to take timber from claim. 4 L. D., 289; No. 105.

But one entry allowed. 5 L. D., 124, 133; Nos. 561, 562.

Limited to unappropriated public land. 5 L. D., 172; No. 565.

If the land is subject to, and the applicant is qualified the only question thereafter is compliance with the law. 5 L. D., 196; No. 571.

Not allowed where settlement could only be effected by forcible intrusion. 5 L. D., 377; No. 588.

Equitable title acquired by residence and cultivation. 5 L. D., 105; No. 558.

Entry of single woman not affected by marriage before final proof. 5 L. D., 196; No. 571.

The right of a widow to make entry recognized, though holding land covered by the entry of her husband on which final proof has not been made. 5 L. D., 184; No. 569.

Right cannot be maintained while holding under pre-emption claim. 5 L. D., 403; No. 592.

A tract "cornering" upon another is not "contiguous" thereto within the meaning of section 2289, R. S. 5 L. D., 683; No. 608.

Claimant that alleges residence before required, must show the same. 5 L. D., 440; No. 1228.

General requirements of the law not waived by the act of May 14, 1880. 5 L. D., 172; No. 565.

Claim secured through concessions made a conflicting settler. 5 L. D., 119; No. 560.

Entry does not authorize general disposition of timber. 5 L. D., 389; No. 2087.

Not allowed where the evident purpose was to wrongfully secure the improvements of another. 5 L. D., 377; No. 588.

Terms of the law must be complied with though the entry may be of land requiring irrigation. 5 L. D., 296; No. 585.

Claim of one that fails in residence will not defeat a pre-emptor that has not filed. 5 L. D., 188; No. 1218.

Additional entry under the acts of 1879, as amended May 6, 1866. Circular of July 26, 1886. 5 L. D., 128; No 114.

"Boxing" pine trees not cultivation under homestead law. 5 L. D., 389; No. 2087.

REQUIREMENTS:

The law insists on the cultivation for five years, even during periods when his absence is excusable; an entryman earning $1.50 to $1.75 per day at his trade has no excuse for failure to cultivate. 2 L. D., 73; No. 349.

A persisting drought excuses the failure to cultivate. 2 L. D., 149; No. 325.

In commutation entry cultivation must be proved. 2 L. D., 72; No. 273.

The occupancy and use of land for lumbering purposes does not constitute the improvement contemplated by the homestead law. 3 L. D., 63; No. 324.

Commutation of entry will not be allowed in the absence of *bona fide* cultivation and residence. 3 L. D., 63; No. 424.

Both residence and cultivation required except in cases of adjoining farms. 3 L. D., 141; No. 429.

In grazing countries use of the land for that purpose, coupled with the residence, held to be in compliance with homestead laws. 3 L. D., 141; No. 429.

The cultivation required by Sec. 2301, R. S., is satisfied by clearing the land for the purpose of planting, when it appears that sufficient time has not elapsed for further acts in that direction. 3 L. D., 49; No. 421.

Heirs must cultivate till the five years expire. 3 L. D., 465; No. 407.

An honest settler's rights should not be defeated on mere technical and speculative grounds. 2 L. D., 163; No. 406.

A homestead settler who gave the required notice under act June 4, 1880, was constructively residing on his claim until October 1, 1881; contest for abandonment would not lie prior to April 1, 1882. 2 L. D., 28; No. 286.

It is competent for a contestant, alleging abandonment prior to April 1, 1882, to show that the settler did not meet with a loss or failure of crops. 2 L. D., 111; No. 351.

Where an entry is relinquished because of the ravages of grasshoppers, the homestead right is exhausted. 2 L. D., 141; No. 382.

Allegations of grasshopper ravages as excuse for a failure to offer final proof within the time required must be founded on prior proper notice and absence from the land. 2 L. D., 622; No. 1083.

DEATH.

If entryman entitled to patent at death, his right inures to his heirs (or widow). 2 L. D., 46; No. 335.

Widow or heir is not required to reside on the land. 2 L. D., 74; No. 349.

Upon death, the law casts the homestead right on the widow, who must however, so indicate her intention of claiming the land that third persons will not be prejudiced by her laches. 2 L. D., 139; No. 365.

A widow, as the legal representative of her deceased husband, may continue to cultivate his homestead, and at the same time may make entry in her own name. 2 L. D., 169; No. 293.

Where entryman (prior to act June 15, 1880), devised the land to his daughter, afterwards resident on it as head of a family, his widow, who deserted him prior to the entry, is barred. 2 L. D., 85; No. 409.

Before the rights of heirs in general are considered, it must be shown that there is neither widow nor minor child surviving. 2 L. D., 98; No. 289.

Heirs may acquire title in either of the several ways prescribed in the homestead laws, or may purchase under Sec. 2, act of June 15, 1880, though aliens. 2 L. D., 98; No. 289.

The devisee of a single man, who made formal application before his death, has the right of entry. 2 L. D., 85; No. 410; see Nos. 626, 1429, 1986, 333.

None but the widow, or minor orphan children, can have credit for the deceased soldier's service, in making an original entry. 2 L. D., 244; No. 386.

The entire term of the soldier's enlistment is to be credited to the widow, although he was discharged before its expiration because of the close of the war. 2 L. D., 179; No. 214.

Authorized sale under Sec. 2292, R. S., vests full title in purchaser, who, in order to obtain patent, must pay office fees only. 2 L. D., 76; No. 315.

On death of applicant prior to allowance of entry, his heirs may make the entry. 2 L. D., 77; No. 333.

Insanity of husband (the entryman) is to be regarded as "civil death." 2 L. D., 103; No. 355.

ADJOINING FARM.

Original entry treated as adjoining farm, to save the rights of the entryman. 1 L. D., 71; No. 259.

Adjoining farm requires five years' residence, except when there may be credit for military service. 1 L. D., 68; No. 257.*

Owner of an undivided portion of a tract (less than 160 acres) may make adjoining farm entry. 1 L. D., 38; No. 221.

Adjoining farm, allowed after purchase of original farm and before patent therefor. 1 L. D., 61; No. 250.

Entry cannot be made by one owning and residing on 160 acres who has given a bond for a deed of the half of it, conditioned upon payment for the land in three years. 2 L. D., 96; No. 345.

Residence thereon is not required. 2 L. D., 38; No. 378.

The right to make does not relate back to the date of settlement under the original entry. 5 L. D., 172; No. 565.*

The right to make not modified by the act of May 14, 1880. 5 L. D., 172; No. 565*

Not allowed to one that has had the benefit of the general law. 5 L. D., 124; No. 561.

ADDITIONAL IN RAILROAD LIMITS.

Limitations of right to additional. 1 L. D., 29; No. 215.

The right to make additional, extends to all persons entitled by entry or succession to make final proof. 1 L. D., 24, 51; Nos. 228, 239.

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*Party entitled to credit on an adjoining farm entry for prior residence on original farm in connection with use of entered tract under act of May 14, 1880. 7 L. D., 33.

Act of March 3, 1879, construed with the second section of act of May 14, 1880. 1 L. D., 93; No. 281.

The law subserved if original and additional are together used as a home. 1 L. D., 62; No. 251.

Land covered by original and additional entries regarded as a compact body. 1 L. D., 62, 68; Nos. 251, 257.

Cultivation of land taken as additional not required. 1 L. D., 62; No. 251.

Additional cannot be made if the original has been canceled. 1 L. D., 92; No. 280.

Widow of original entryman may make additional under the act of March 3, 1879. 1 L. D., 24; No. 228.

Right to make additional not lost by the purchase of original under the act of June 15, 1880. 1 L. D., 29; No. 215.

A married woman, who, previous to marriage, had made an entry wherein she was restricted to 80 acres, may make an additional entry. 1 L. D., 38; No. 222.

One who had purchased his original entry under the act of June 15, 1880, could make new entry under act of March 3, 1879. 1 L. D., 29; No. 215.

Relinquishment of original accepted and new entry allowed pending contest against the original for abandonment. 1 L. D., 93; No. 281.

Claimant may take land embraced in his former timber-culture entry as additional, if he is the first legal applicant after relinquishment. 1 L. D., 125; No. No. 1761.

May be embraced within commutation entry. 1 L. D., 100; No. 238.

Persons making new or additional entries under acts of March 3 and July 1, 1879, have seven years wherein to make final proof. 2 L. D., 91; No. 314.

The entry can only be made by the original entryman, or by one who has succeeded to his right and by virtue thereof holds the original homestead claim. 2 L. D., 778; No. 344.

Where application for 80 acres was made in November, 1878, but owing to a prior entry, entry was not made until June, 1879, entry for an additional 80 acres is allowed. 2 L. D., 30; No. 334.

Subsequent to act of March 3, 1879, entries were not restricted to 80 acres. 2 L. D., 30; No. 334.

SOLDIERS' DECLARATORY STATEMENT.

Declaratory filing is not an appropriation of the land. 1 L. D., 79; No. 268.

Soldiers' declaratory statement, circular of December 15, 1882, with blank forms. 1 L. D., 648; No. 54.

Entry, settlement, and improvement must follow filing within six months. 1 L. D., 79; No. 268.

The right of a soldier relates back to his filing, if the entry is regular, and the right to an additional entry goes therewith. 1 L. D., 48; No. 237.

Fraudulent acts and inducements of certain agents. 1 L. D., 79; No. 268.

Declaratory statement may be filed by an agent, but such agent cannot lawfully appoint a sub-agent, unless by the prior or subsequent consent of his principal. 2 L. D., 215; No. 390.

The oath of an agent (to non-interest and non-agreement for sale) required by circular December 15, 1882, must accompany filing. 2 L. D., 214; No. 390.

Settlement, improvement, and entry must be made within six months after filing. 3 L. D., 17, 281; Nos. 416, 1134.

By failure to enter in time the right to file declaratory statement may be exhausted. 3 L. D., 17; No. 416.

Entry must be made within six months from filing. 3 L. D., 279; No. 1134.

The rule as to settlement, improvement, and entry of soldier's homestead changed December 15, 1882. 3 L. D., 301; No. 416.

Entry not allowed for other land within life of filing. 4 L. D., 561; No. 546.

Right exhausted by filing. 4 L. D., 562; No. 546.

Entry, settlement and improvement must follow the filing within six months. 5 L. D., 353; No. 587.

Circular requirements of December 15, 1882, concerning soldier's declaratory statement, discussed. 5 L. D., 133; No. 562; see No. 54.

Right exhausted by the filing and abandonment of a soldier's declaratory statement. 5 L. D., 133; No. 562.

SOLDIER'S ADDITIONAL.

Right of soldier not restricted to contiguous land. 1 L. D., 48; No. 237.

Allowed when a quantity less than 160 acres was entered before June 22, 1874. 1 L. D., 48; No. 237.

Certificates should be delivered to the agent who filed the claim if he has properly discharged his duty, though a later power of attorney may have been filed by another. 1 L. D., 34; No. 216.

Circular of February 13, 1883, discontinuing practice of certification. 1 L. D., 654; No. 56.

Any certificate of right issued by the General Land Office may be located by agent. 2 L. D., 240; No. 332.

May not be made on a tract withdrawn, for purpose of a sale, under Sec. 2455 R. S. 2 L. D., 242; No. 374.

The practice in reference to assignments reviewed; the right is personal, and the assignment of a certificate will not be recognized; a purchaser takes it subject to all defects, and is not an innocent purchaser. 2 L. D., 235; No. 319.

Where certificate has issued improperly to one (in Missouri Home Guards) without right of additional entry, it is void, and the entry made under it must be canceled. 2 L. D., 235; No. 319.

The purchaser of the certificate, having made entry, may (in this case) buy the land under Sec. 2, act of June 15, 1880. 2 L. D., 238; No. 331.

The inadvertent use of the same original entry in a certificate subsequently issued does not invalidate a location upon the prior and *prima facie* valid certificate. 2 L. D., 239; No. 401.

Mere suspicion of forgery, from a comparison of signatures on army pay-rolls, without allegations or other proof, may not impair the claimant's right. 2 L. D., 240; No. 408.

In case of widow's marriage or death, her attorney does not thereby become the children's attorney, especially where their guardian has appointed another. 2 L. D., 241; No. 370.

Where a widow applies and dies before issue of the certificate, leaving children of the soldier, her right is extinguished, notwithstanding any power of attorney she may have given, coupled with an interest or otherwise. 2 L. D., 241; No. 370.

Where a power of attorney, coupled with an interest was executed by the soldier and by his wife, and delivered to A as attorney, and the soldier died before certification of his right; on a new application by the widow, with power of attorney to B as her attorney, it is held, that A is entitled to possession of the certificate. 2 L. D., 30; No. 337.

Where the soldier gave A a power of attorney in 1875, and B a power of attorney in 1881, wherein all former powers were revoked, and C, claiming to represent A, delegated his power to D; held, that A might delegate his power to D directly, but not indirectly through C; that, unless C can establish a privity with A the evidence filed by D cannot be utilized by B, but must be returned to D, as requested, without prejudice to the soldier; and that B cannot be recognized as against A until he files the evidence requisite to establish the claim. 2 L. D., 31; No. 359.

Where A, as attorney for the soldier, filed a claim in 1878, which was afterwards rejected on A's request, and the soldier so notified by him; and B, as attorney, filed a new claim in 1879, and was duly recognized as the attorney; and A afterwards refiled the rejected claim, with a power of attorney executed in 1878; and B filed a power of attorney, executed in 1880 and revoking former powers: held, that A's action in procuring the rejection of the claim and notifying his principal thereof operated as a revocation of his power of attorney. 2 L. D., 33; No. 371.

Presumption of death does not arise for seven years after entryman's disappearance. 2 L. D., 120; No. 357.

The soldier's children take, not as heirs, but as donees, and are substituted to the soldier's rights where there is no widow, or in the event of her marriage or death. 2 L. D., 242; No. 370.

A minor orphan daughter, surviving, succeeds to her father's entry, and may also make homestead entry in her own right. 2 L. D., 99; No. 302.

A minor orphan child surviving, and coming of age before time for making final proof, will not be required to establish residence but must improve and cultivate the land. 2 L. D., 101, 244; Nos. 367, 386.

Application for minor orphan children must be made on the ordinary forms, name the children, and be signed by the guardian; guardian must make the affidavit at the local office, or if he or one of the children is residing on the land, before the county clerk. 2 L. D., 244; No. 386.

Where an attorney through fraud obtained a power to sell the additional homestead right, the certificate and location made thereunder will be canceled and a new certificate issued to the soldier. 3 L. D., 39; No. 418.

Non-contiguous locations under one certificate. 3 L. D., 472; No. 459.

The right to make additional entry exhausted when once used irrespective of the amount entered. 3 L. D., 509; No. 463.

Right to make additional entry accorded to the minor, though the soldier's entry had been canceled for abandonment. 3 L. D., 395; No. 452.

A certain condition properly inserted in certificate. 4 L. D., 323; No. 503.

Right to make non-assignable. 4 L. D., 323; No. 503.

Without proof as to military service there is no right of entry. 4 L. D., 323; No. 503.

Status of certificates issued before and after February 13, 1883. 4 L. D., 323; No. 503.

Unlawful possession of land no bar to location by another. 4 L. D., 560; No. 545.

Extent of additional entry determined by the difference between the original entry and 160 acres. 5 L. D., 10; No. 553.

Residence and cultivation required under location where the original entry was canceled for failure to make final proof. 5 L. D., 10; No. 553.

Entry for minor heirs allowed to stand though the application did not contain the names of all the minors. 5 L. D., 222; No. 575.

Certificate issued to widow may properly require her to show that she has not remarried. 5 L. D., 264; No. 570; but see Nos. 503, 636.

Recognized when made through an agent in conformity with practice. 5 L. D., 289; No. 583.

INDIAN.

The act of January 18, 1881, for the relief of the Winnebago Indians, extended the time within which homesteads, taken under the act of March 3, 1875, could be entered and completed, for a period long enough at least to enable the claimants to use to advantage the money appropriated in making entries, erecting dwellings, and cultivating and improving the lands so entered and selected; such selections and entries (in Wisconsin) are not at present subject to contest. 2 L. D., 191; No. 651.

Certain suspended Michigan, entries to be examined after due notice. 4 L. D., 144; No. 657.

Right of, shown by agent's certificate. 4 L. D., 144; No. 657.

Extent of compliance with the general law required. 4 L. D., 144; No. 657.

COMMUTATION.

The entryman, applying to purchase under Sec. 2301, R. S., must show that he has in good faith cultivated the land. 2 L. D., 72; No. 373.

A probate judge in Dakota, acting as clerk, may take the commutation affidavit, provided that it be taken at the county seat where the probate court is holden. 2 L. D., 224; No. 870.

A deserted wife or minor child may commute only as an agent; entry to be referred to Board of Equitable Adjudication. 2 L. D., 81; No. 360.

Is a consummation of the homestead entry. 4 L. L., 347, 442; Nos. 507, 522.

The original entry is merged in the commutation and follows the determination thereof. 4 L. D., 237; No. 494.

Not the exercise of a pre-emptive right. 4 L. D., 441; No. 521.

Right of, depends upon a prior compliance with the homestead law. 4 L. D., 237; No. 494.

Right to commute, extends to an entry made under section 2304, Revised Statutes. 4 L. D., 390; No. 514.

Purchaser after commutation and prior to patent takes, subject to the action of the Land Department. 4 L. D., 347; No. 507.

Six months' residence after entry not essential. 4 L. D., 418; No. 518.

Six months' residence required as an assurance of good faith. 4 L. D., 287, 347, 384; Nos. 501, 507, 510.

Allowed though residence did not cover six months from entry. 4 L. D., 287; No. 501.

Regulations under the pre-emption law govern as to residence. 4 L. D., 277, 347; Nos. 501, 507.

Proof in, properly includes residence. 4 L. D., 347, 384; Nos. 507, 510.

Homestead right lost through failure of commutation entry. 5 L. D., 392; No. 590

Right of, not defeated by failure to establish residence within the required period in the absence of an intervening adverse claim. 5 L. D., 675; No. 598.

As effected by the act of May 14, 1880. 5 L. D., 94; No. 556.

ACT OF JUNE 15, 1880.

Right of purchase not personal. 1 L. D., 50; No. 239.

Purchase may be made by any person who through entry or by operation of law has succeeded to the right to make final proof. 1 L. D., 50, 56; Nos. 239, 244.

Right of purchase accorded the first applicant where several entries had been canceled. 1 L. D., 96; No. 285.

Alien heirs may purchase. 1 L. D., 98; No. 292.

Register who was appointed after entry allowed to purchase. 1 L. D., 73; No. 261.

Entry of alien may be purchased by widow. 1 L. D., 55; No. 244.

If a single woman makes entry and then marries, the husband is not entitled to purchase in his own name in the event of her death. Patent in such case must issue to the heirs. 1 L. D., 84; No. 272.

Widow or heirs, not administrator, may purchase. 1 L. D., 35; No. 217.

Right of widow or heirs defeated by transfer. 1 L. D., 35; No. 217.

Alienation of land no bar to purchase. 1 L. D., 74; No. 262.

Purchase can be made after cancellation. 1 L. D., 57, 69, 96; Nos. 246, 258, 285.

Purchase allowed where final proof failed. 1 L. D., 75; No. 263.

Purchase allowed though entry was void at inception. 1 L. D., 25; No. 220.

Intervening vested rights protected as against said act. 1 L. D., 69; No. 258.

The term "homestead laws" used in the second section of said act in a generic sense. 1 L. D., 69; No. 258.

Right of purchase defeated by intervening timber-culture entry, or right of pre-emption. 1 L. D., 69; No. 258.

Transferee by *bona fide* instrument of the entryman's improvement and possessory right can purchase under said act. 1 L. D., 53; No. 241.

Possession of duplicate receipt not such evidence of transfer as to authorize purchase. 1 L. D., 67; No. 255.

Transfer subsequent to act confers no right of purchase upon transferee. 1 L. D., 75; No. 264.

Attempted transfer prior to act carries right of purchase, though the deed was not made till after the passage of the act. 1 L. D., 72; No. 260.

Transfer of land must be in writing to carry right of purchase. 1 L. D., 67; No. 255.

"*Bona fide* instrument in writing" not necessarily a deed in legal form. 1 L. D., 53; No. 241.

An executed or present transfer, and not an agreement to transfer *in futuro* (after entry), is meant by the act. 2 L. D., 53; No. 305.

A contract to convey the land does not deprive entryman of benefit of the act. 2 L. D., 94; No. 299; see Nos. 318, 600.

Irregularity or illegality of entry—fraud not appearing—is not a bar to the right. 2 L. D., 94; No. 299.

An attempted transfer subsequent to June 15, 1880, cannot become effective, the act having relation to past transactions only. 2 L. D., 177; No. 400.

There is no right of purchase in one to whom the lands have already been patented under the general homestead law, notwithstanding there may be doubt about the validity of the title to them. 2 L. D., 114; No. 820; see No. 843.

The entryman has right of purchase while his appeal from the Commissioner's action is pending before the Secretary, prior to the cancellation of his entry. 2 L. D., 51; No. 303; see Nos. 350, 550, 604.

When judgment against the entry has become final under the rules, in the local office or on appeal, the contestant's preferred right of entry attaches, and if duly exercised bars the entryman's right of purchase on a subsequent application. 2 L. D., 164; No. 350; see Nos. 550, 604.

The deserted wife or minor child of the entryman may purchase, as his agent; entry must be referred to Board of Equitable Adjudication. 2 L. D., 81; No. 360.

The assignee of an erroneously-issued and invalid certificate of soldiers' additional homestead right may (in this case) purchase the tract already entered by him. 2 L. D., 238; No. 331.

The legal successors (in this case the devisee) is entitled to purchase. 2 L. D., 83; No. 409.

As the entryman in this case, if living, might have purchased at date of the application (after contest, but before hearing), this right descended to his heirs. 2 L. D., 99, 523; Nos. 297, 1403; but see Nos. 550, 604.

A devisee has the right of purchase, as the transferee by will; applied to case where entryman's widow had deserted him several years before his death, and he had devised land to his daughter, who afterwards resided on and improved it as head of a family. 2 L. D., 82; No. 409.

Where one made homestead entry under the general law in 1874, and, in good faith, a soldier's homestead entry in 1878, and pending contest against the latter, made application to purchase: held that, notwithstanding the irregularity, he may make purchase. 2 L. D., 124; No. 309; but see Nos. 550, 604.

Where the entryman sold his homestead right, and delivered possession of the land, which was occupied and improved by the transferee, his right of purchase is defeated. 2 L. D., 125; No. 318; but see Nos. 299, 600.

The entryman can purchase only such part of the homestead as he has not attempted to transfer; if he has attempted to transfer, only the transferee has the right of purchasing, in whole or in part, unless there be a mutual agreement to the contrary. 2 L. D., 176; No. 400.

The required affidavit of an applicant to purchase may be made elsewhere than in the land district, for good cause shown, before any qualified officer having a seal. 2 L. D., 128; No. 338.

The proviso in this section was not necessary to protect subsequent entrymen, the intention of Congress, from general considerations, being sufficiently clear without it. 2 L. D., 165; No. 350.

Right of purchase barred by pre-emption claim. 3 L. D., 374; No. 1143.

Widow may purchase. 3 L. D., 490; No. 1474.

Widow, instead of administrator, may purchase. 3 L. D., 466; No. 407.

Construed with the act of May 14, 1880. 4 L. D., 580; No. 550.

Right of purchase defined. 4 L. D., 465; No. 527.

Right of purchase not lost with cancellation of entry. 4 L. D., 21; No. 478.

Only land subject to entry may be purchased. 4 L. D., 171; No. 492.

Intervening filing bars the right of purchase. 4 L. D., 466, 493; No. 527, 530.

Right of purchase recognized in case of entry made by an alien who subsequently declared his intention to become a citizen. 4 L. D., 564; No. 547.

Hearing ordered, after purchase, on the charge that the original entry was fraudulent. 4 L. D., 578; No. 549.

Application to purchase reserves the land. 4 L. D., 32; No. 480.

During contest the right of purchase exists until final judgment in favor of contestant. 4 L. D., 21; No. 478; but see Nos. 550, 604.

Application should not be carried to entry until right of appeal allowed to adverse parties has expired. 4 L. D., 21; No. 478; but see also Nos. 550, 604.

Purchase hereunder not allowed pending contest concerning the right of entry. 4 L. D., 463, 466; No. 527.

Right of purchase cut off by intervening contest. 4 L. D., 580; No. 550; see No. 604.

Remedial, and construed liberally. 5 L. D., 10; No. 553.

No restrictions on purchase under, except those applicable to ordinary cash entry. 5 L. D., 535; No. 600.

No right of purchase in transferee who became such after the passage of the act. 5 L. D., 11; No. 554.

Contract of sale prior to purchase does not affect rights under. 5 L. D., 535; No. 600.

Purchase not permissible pending intervening contest. 5 L. D., 229; No. 577.

Right of purchase suspended by intervening contest. 5 L. D., 188, 606; No. 1218.

Purchase defeated by order of cancellation following successful contest. 5 L. D., 606; No. 604.

Right of purchase not defeated by cancellation of entry. 5 L. D., 333; No. 1534.

Purchase allowed after cancellation of entry. 5 L. D., 529; No. 1548.

Right of purchase as a subsisting claim to the land. 5 L. D., 529; No. 1548.

Widow of entryman may purchase. 5 L. D., 333; No. 1534.

Extends to an entry where the original affidavit was illegally made. 5 L. D., 115; No. 559.

Purchase allowed where the entry was void at inception. 5 L. D., 118; No. 559.

Application under, may be entertained for land patented on entry within the terms of the act on surrender of the patent. 5 L. D., 301: No. 843.

Does not authorize the purchase of land entered by mistake in case stated. 5 L. D., 105; No. 558.

Application under, inconsistent with the claim of due compliance with the homestead law. 5 L. D., 229; No. 577.

Not dependent upon compliance with or qualifications under the homestead law. 5 L. D., 535; No. 600.

Purchase under this act not the equivalent to residence and cultivation. 5 L. D., 10; No. 553.

Right to purchase not dependent upon residence or occupancy. 5 L. D., 333; No. 1534.

THE PRE-EMPTION LAW.

The priviledge of pre-emption now extends to settlement on unsurveyed as well as on surveyed lands, and a credit of from twelve to thirty-three months is given the pre-emptor by residence thereon.

By act of application at a district land office and the payment of a fee for the registration of his claim by filing a declaratory statement, a person gains the right to occupy thereunder a certain tract of land, offered or unoffered, now not more than 160 nor less than 40 acres (in the first act the quantity was 640 acres), for a limited period, with obligation at the end of that period to pay to the

United States $1.25 per acre for the land in the tract claimed or entered, or $2.50 per acre, as the case may be, and receive a patent therefor.

1. The qualifications required of a pre-emptor are that he (or she) shall be a citizen of the United States (or have declared an intention to become such); over twenty-one years of age or the head of a family; an actual inhabitant of the tract claimed; and not be the proprietor of 320 acres of land in any State or Territory.

2. A person who has removed from land of his own to reside on public land in the same State or Territory, or who has previously exercised his pre-emption right, is not a qualified pre-emptor.

3. Lands included in any reservation, or within the limits of any incorporated town, or selected as the site of a city or town, or actually settled and occupied for purposes of trade and business and not for agriculture, or on which there are any known salines or minerals, are not subject to pre-emption.

4. If the land is surveyed, but has not been "offered," the declaratory statement must be filed within three months from date of settlement. If upon "offered" land, the filing must be made within thirty days.

5. If the land is unsurveyed at the time of settlement, the declaratory statement must be filed within three months after the date of filing the township plat in the local office.

6. Failure to file a declaratory statement within the time prescribed makes the land liable to the claim of an adverse settler who does file notice of his intention at the proper time.

7. The land-office fee for filing a declaratory statement is $2, except in the Pacific States and Territories, where the fee is $3.

8. A pre-emption filing can be made only by an actual settler on the land. A filing without settlement is illegal, and no rights are acquired thereby, unless settlement is made before the intervention of an adverse claim.

9. The existence of a pre-emption filing on a tract of land does not prevent another filing to be made of the same land, subject to any valid rights acquired by virtue of the former filing and actual settlement, if any.

10. On *offered* lands proof and payment must be made within twelve months from date of settlement.

11. If the land is *unoffered*, proof and payment may be made within thirty-three months from date of settlement.

12. A failure to make proof and payment as prescribed by law renders the land subject to appropriation by the first legal applicant.

13. The requirements of actual inhabitancy and improvement must be observed as strictly under the pre-emption law as under the homestead law.

14. Failure to inhabit and improve the land in good faith, as required by law, renders the land subject to contest and the entry to investigation and cancellation.

15. Final proof in pre-emption cases must be made to the satisfaction of the register and receiver, whose decision, as in other cases, is subject to examination and review by the General Land Office.

16. Publication of notice to make proof is required as in homestead cases.

17. The final affidavit must be made before the register or receiver, or before the clerk of a court of record in the county and State or district and Territory where the land is situated. If in an unorganized county the proof may be made in a similar manner in any adjacent county in the same State or Territory.

18. The pre-emptor is required to make oath that he has not previously exercised his pre-emption right; that he is not the owner of 320 acres of land; that he has not settled upon and improved the land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; that he has not made any contract or agreement, directly or indirectly, in any way or manner, with any person whomsoever, by which the title he may acquire from the United States shall inure in whole or in part to the benefit of any person except himself.

19. Any person swearing falsely *forfeits all right to the land and to the purchase-money paid*, besides being liable to prosecution under the criminal laws of the United States.

Blank forms of the several papers required to be filed in the prosecution of a pre-emption claim, including final proof forms, may be obtained on application by mail or otherwise at the district land offices.

PRE-EMPTION RULINGS.

Assertion of claim under the law required to constitute a legal claim. 1 L. D., 453; No. 1021.

Benefits of, not secured by mere occupancy of public land. 1 L. D., 453; No. 1021.

A conditional claim is unknown to the law. 1 L. D., 404; No. 1045.

The first in time in the commencement of proceedings is the first in right if such proceedings are regularly followed up. 1 L. D., 404; No. 1045.

Laws do not include Indians. 1 L. D., 491; No. 1040.

Right to make entry recognized on return to land after absence. 1 L. D., 435; No. 1019.

The possibility of one party taking the improvements of another is within the scope of the law. 1 L. D., 423; No. 1054.

A divorced woman cannot claim the benefit of acts performed by her former husband, but must rely on her own compliance with the law as a single woman or head of a family. 1 L. D., 401; No. 1033.

Entry of married woman who had complied with the law and published notice of final proof prior to marriage sent to the Board of Equitable Adjudication. 1 L. D., 460; No. 1065.

Fraudulent claim as a divorced wife. 1 L. D., 421; No. 1055.

The purchase of a dwelling-house is equivalent to its erection. 1 L. D., 137; No. 1774.

Qualification of pre-emptor not affected by the ownership of land as a trustee. 1 L. D., 462; No. 1042.

Claim of one who removes from land of his own to settle on public land in same State invalid. 1 L. D., 405; No. 1030.

Removal from home in town or city not within the inhibition of Sec. 2260, R. S. 1 L. D., 490; No. 1069.

Second clause of section 2260, R. S., discussed generally. 1 L. D., 492; No. 1068.

Right within the incorporated limits of a town, under act of March 3, 1877. 1 L. D., 407; No. 2107.

Circumstances as well as time recognized in the development of the settler's good faith. 1 L. D., 446; No. 1053.

Pre-emptor may file for 160 acres, though claiming less at settlement, if contiguous tract is vacant. 1 L. D., 405; No. 1030.

Right exhausted by the entry of eighty acres. 1 L. D., 485; No. 1035.

Of town lots under Sec. 2383, R. S. 1 L. D., 501; No. 2109.

Right restricted to the lot settled upon and one additional on which the settler has improvements. 1 L. D., 502; No. 2110.

Of town lots confined to settlers having the qualifications of a pre-emptor. 1 L. D., 502; No. 2110.

Pre-emption right is not the subject of sale and transfer. 2 L. D., 559; No. 1420.

Is the right to hold land before payment is made therefor, upon promising to buy the land at a stipulated time, together with the right to purchase at such time; it is initiated by settlement and filing a declaratory statement, and has had its full life when the stipulated time of purchase arrives. 2 L. D., 855; No. 1105.

Where B filed for A, without A's consent or ratification, the right was not exhausted. 2 L. D., 621; No. 1078.

Where a pre-emptor voluntarily abandons his claim in the face of an adverse claim which he might have successfully contested, he exhausts his right. 2 L. D., 573; No. 1093.

A pre-emption filing which is a declaration of one's intention to claim a tract of land, confers a mere preferred right against third persons, but none against the United States; land covered by it is public land, and is open to settlement or entry, subject only to the preferred right of pre-emption. 2 L. D., 581; No. 1034.

To be valid, must be founded upon a prior actual settlement. 2 L. D., 621; No. 1078; but see Nos. 1087, 1143, 1157, 1163, 1204, 1208, 1237.

May be valid as to one part and invalid as to another part of the land covered by it; as where A surrendered possession of the W. ½ of a quarter, and B, who filed for the whole of it, took possession of the W. ½ alone. 2 L. D., 637; No. 1091.

If not made within the time limited (three months), is barred by an intervening homestead entry, and right to land is forfeited. 2 L. D., 578; No. 1109.

A pre-emptor may file but one declaratory statement on the same or on another tract; applied to a case where a second filing was offered because settler found it impossible to raise good crops on his claim. 2 L. D., 854; No. 1106.

Where the settler relinquishes the land in the face of a homestead claim, he cannot have his filing reinstated on the ground that the contract consideration for relinquishment was not paid by the homestead claimant. 2 L. D., 621; No. 1083.

May be made by one who temporarily occupied a tract on which a former filing had been made in his name by a brother, without consent or prior settlement. 2 L. D., 620; No. 1078.

Where final homestead proof is not made within the required time, filings made are permitted to stand in the absence of adverse claims; where entry is afterwards made, the right under the filing is at an end. 2 L. D., 621; No. 1083.

Where one owned land (homestead, after final proof) in the same Territory and made a deed of it to another prior to settlement, but did not deliver the deed until after settlement, he was not a qualified pre-emptor. 2 L. D., 579; No. 1109.

Settlement may not be made by one removing from land which he has bought and paid for, though no deed for it has passed. 2 L. D., 616; No. 1089.

A married woman may not make an entry; marriage (by consent and cohabitation) to one from whom she had been previously divorced (in Minnesota) is valid under the code of Dakota. 2 L. D., 600; No. 1090.

May be made by a deserted wife, as the head of a family. 2 L. D., 312; No. 1857.

May be made on lands formerly covered by a timber-culture entry, where there is no intervening right of a successful contestant applying under the homestead or timber-culture laws. 2 L. D., 294; No. 1835.

The decision, holding for cancellation an entry at $1.25 made in an even section (railroad limits) prior to receipt of notice of an executive withdrawal for railroad purposes, is reversed. 2 L. D., 557; No. 1412.

There is no qualification of the provision allowing one to homestead land "upon which such person may have filed a pre-emption claim;" the right to transmute is incident to a valid pre-emption right, and when exercised relates back to the date of the pre-emptor's settlement. 2 L. D., 635; No. 1091.

Application to transmute should be received, and notice thereof be given to a subsequent entryman; if the validity of the pre-emption claim is not impeached, the subsequent entry should be canceled and the transmutation allowed. 2 L. D., 637; No. 1091.

Where A makes a pre-emption filing, and afterwards B makes a claim (homestead) subject to it, if A makes application to transmute and B denies his right to do so, the burden and expense of disproving his right is on B. 2 L. D., 637; No. 1091.

A pre-emptor, who has complied with the prerequisites of the statute, is entitled to a certificate of entry. 2 L. D., 167; No. 350.

Certificate is only *prima facie* evidence of payment. 2 L. D., 48; No. 335.

In general terms is a special preference given to a claimant, by which he may hold to the exclusion of others, dependent upon the performance of conditions. 3 L. D., 71, 434; Nos. 146, 2118.

Right of, begins with settlement. 3 L. D., 272, 281; Nos. 1448, 1134.

Right of, not initiated by forcible intrusion. 3 L. D., 279; No. 427.

Right of, not acquired without residence. 3 L. D., 276; No. 1118.

Based on settlement and filing for the benefit of another void *ab initio*. 3 L. D., 488; No. 1162.

Good faith in the matter of improvements considered. 3 L. D., 392; No. 1150.

In case of fraud patent will not issue though the pre-emptor may have assigned to an innocent purchaser after the issuance of final certificate. 3 L. D., 393; No. 1149.

The right to a patent once vested is equivalent to a patent issued, and the final certificate obtained on the payment of the money is as binding upon the government as a patent. 3 L. D., 23; No. 1120.

A pre-emptor in default having died, his widow may take as a homesteader from the date of his death, in the absence of an adverse right. 3 L. D., 274; No. 443.

Pre-emptor having failed to prove up within statutory period may purchase in the absence of adverse claim. 3 L. D., 272; No. 1448.

The right to transmute a filing to a homestead entry does not extend to the widow or heirs of the pre-emptor. 3 L. D., 274; No. 443.

Filing on school section in California may be transmuted to a homestead. 3 L. D., 229; No. 438.

The administrator, or heirs, may complete the claim of a deceased pre-emptor. 3 L. D., 274; No. 443.

The rights of the purchaser are established on final proof and payment and no failure of the district office to act thereon can affect the same. 3 L. D., 172; No. 741.

A pre-emptor in Kansas having become insane after filing and three years' residence, the wife's homestead entry in her own name was, in view of the local law, treated as a transmutation and credit allowed for the residence. 3 L. D., 64; No. 1123.

Offered land is subject to the entry of other purchasers, after laches in filing by the settler, but is not forfeited as to the government. 3 L. D., 119; No. 1448.

Failure to cultivate on the part of the heir excused for climatic reasons. 3 L. D., 345; No. 1142.

The "trade and business" contemplated in Sec. 2258, R. S., must be actual. 3 L. D., 283; No. 414.

But one filing allowed under the law. 3 L. D., 258; No. 1137.

Second, allowed only after careful scrutiny. 3 L. D., 161; No. 87; see also Nos. 100, 899, 1155.

Second, not allowed where the first was made upon a tract claimed by another, in the belief that such claim would be relinquished, which claim was relinquished. 3 L. D., 181; No. 1133.

Second, allowed where the first did not correspond with the settlement. 3 L. D., 93; No. 1127.

A filing based upon settlement made in trespass is a nullity. 3 L. D., 188; No. 431.

An "expired pre-emption filing" is no bar to the disposition of public land. 3 L. D., 317; No. 900.

Where the claimants are equally in laches as to filing, the land is awarded to the prior record and settlement. 3 L. D., 347; No. 1141; see also No. 1034.

Filing before settlement cured by settlement prior to the inception of an adverse right. 3 L. D., 374, 499; Nos. 1143, 1163.

Second filing not allowed on account of untillable character of land where there has been no cultivation. 3 L. D., 379; No. 1145.

The right to file exhausted by filing made through agent. 3 L. D., 391; No. 1151.

Declaratory statement must be filed within statutory period to protect the settler. 3 L. D., 455; No. 1159.

Pre-emptor at time of filing was not qualified, but as the disqualification had ceased to exist prior to the inception of an adverse right he was allowed to purchase. 3 L. D., 500; No. 1163.

Failure of pre-emptor to declare his intention of becoming a citizen, prior to filing, may be cured before the intervention of an adverse right. 3 L. D., 452; No. 1157.

A nominal change of residence will not defeat the inhibition of Sec. 2360, R. S. 3 L. D., 56; No. 1112.

The proprietor of three hundred and twenty acres cannot render himself a competent pre-emptor by the conveyance of one acre to his infant child. 3 L. D., 56; No. 1112.

Marriage of single woman, after filing and before final proof, defeats the right of purchase. 3 L. D., 384; No. 1148.

Expired filing, how treated. 3 L. D., 576; No. 94.

Right of, as against adverse claims, rests upon priority in settlement. 4 L. D., 423; No. 1202.

Claimant must have the requisite qualifications at settlement. 4 L. D., 116; No. 1180.

No validity in the filing and settlement of one who has exhausted his pre-emptive right. 4 L. D., 560; No. 545.

Right of, not acquired by settlement upon land under control and occupation of another. 4 L. D., 124; No. 1182.

Declaratory statement is for protection as against the claims of subsequent settlers. 4 L. D., 514; No. 1208.

Right of not dependent upon filing declaratory statement. 4 L. D., 514; No. 1208.

The purchase of improvements already upon the land equivalent to making the same. 4 L. D., 56, 63, 259; Nos. 1174, 1175, 498.

Cultivation in person not requisite. 4 L. D., 56; No. 1174.

Use of land for grazing purposes held to be cultivation. 4 L. D., 502; No. 1207.

The second clause of section 2260, Revised Statutes, presumes an actual prior residence. 4 L. D., 200; No. 1189.

The first clause of section 2260, Revised Statutes, does not cover land held jointly by the pre-emptor and his wife in Dakota. 4 L. D., 432; No. 1203.

Bar under second clause of section 2260, Revised Statutes, removed by deed, in good faith, from husband to wife. 4 L. D., 355, 432; Nos. 1199, 1203.

Guardian of minor heir may file the necessary papers. 4 L. D., 139; No. 1186.

Mortgagee after final certificate entitled to be heard in case the entry is held for cancellation. 4 L. D., 544; No. 945.

Marriage of single woman after filing and before final proof defeats the right of purchase. 4 L. D., 70; No. 1177.

Good faith to be determined from the circumstances surrounding each case. 4 L. D., 80; No. 1176.

Compliance with the law allowed to be shown on the removal of statutory disqualification. 4 L. D., 420; No. 1201; but see No. 1227.

Suspension of plat considered as an excuse for non-compliance with the law. 4 L. D., 333; No. 1198.

Right to take timber from claim. 4 L. D., 289; No. 105.

Recognizes settlement as the legal basis of a claim against the United States. 5 L. D., 274, 537; Nos. 1528, 1231.

Depends upon settlement made on land subject thereto. 5 L. D., 289; No. 583.

Is a preferred right of purchase. 5 L. D., 274, 537; Nos. 1528, 1231.

Is based upon settlement, inhabitancy, and cultivation. 5 L. D., 537; No. 1231.

The preference right of purchase, acquired by settlement, filing, and residence, constitutes the nature and substance of a pre-emption claim. 5 L. D., 553; No. 1549.

A claim resting on the settlement and filing of one who had previously exhausted his right is illegal. 5 L. D., 16; No. 555.

Second filing illegal. 5 L. D., 16; No. 555.

Filing and entry of one who removes from land of his own to settle upon public land in the same State exhausts right of. 5 L. D., 413; No. 1227.

Right of, once exhausted, cannot be restored except by Congress. 5 L. D., 643; No. 1235.

Right of, as affected by failure to file in case of intervening claim. 5 L. D., 188; No. 1218.

Claim finally concluded if unsuccessfully set up to defeat the final proof of another. 5 L. D., 260; No. 1220.

"Trade and business" that exempts land from. 5 L. D., 180; No. 414.

Not precluded by abandoned townsite settlement. 5 L. D., 180; No. 414.

Fraudulent if made in the interest of another. 5 L. D., 52; No. 1212.

Right of, when accorded to a "deserted wife." 5 L. D., 42; No. 1213.

Invalid claim not strengthened by transmutation. 5 L. D., 16; No. 555.

All the acts required by law must be performed before any right is secured as against the government. 5 L. D., 442; No. 664.

Not defeated by homsteader who alleges residence within less than six months after entry and fails to show the same. 5 L. D., 440; No. 1228.

Right of, does not extend to land occupied under military authority. 5 L. D., 376; No. 1225.

Heirs may enter within time accorded the pre-emptor. 5 L. D., 454; No. 1229.

Administrator after qualification, may enter. 5 L. D., 454; No. 1229.

Right of administrator defeated by the intervention of an adverse claim unless asserted in proper time. 5 L. D., 454; No. 1229.

Duty of administrator fixed by notice of the claim. 5 L. D., 454; No. 1229.

The adverse claim of a railroad company is not that of "any other purchaser." 5 L. D., 473; No. 1547.

Where rights and equities are equal the first in time has the better title. 5 L. D., 643; No. 1235.

THE TIMBER-CULTURE LAWS.

The act of March 3, 1873 (17 Stats., 605), entitled "An act to encourage the growth of timber on the western prairies," provided that any person might make an entry under that act on any quarter section of the public lands.

Entries under that act were not restricted to heads of families, persons twenty-one years of age, citizens, or those who had declared their intention to become citizens of the United States.

Persons making entries under said act were required to plant, protect, and keep in a healthy growing condition for ten (10) years forty acres of timber on the quarter section entered. The trees were to be not more than twelve (12) feet apart each way. Only one quarter of any section could be entered. Entries were to be made for the cultivation of timber. Final proof could be made at the expiration of ten (10) years from the date of entry or at any time within three (3) years thereafter.

In making final entry under this act the party, or, if he be dead, his heirs or legal representatives, must "prove by two credible witnesses that he, she, or they have planted, and for not less than ten years have cultivated and protected," the quantity and character of timber above mentioned.

The act of March 13, 1874 (18 Stats., 21), was an act amendatory of, and, from said March 13, 1874, a substitute for, the act of March 3, 1873. All timber culture entries made between March 13, 1874, and June 14, 1878, were made under the act of 1874. This act provided that citizens of the United States, or

persons who had declared their intention of becoming citizens. and who were heads of families or had arrived at the age of twenty-one years, could make such entries.

Entries were to be made for the cultivation of timber.

Forty acres of timber on a quarter-section, and the like proportion of timber on less than a quarter-section, were required to be planted, protected, and kept in a healthy growing condition for eight (8) years. The trees were to be not more than twelve (12) feet apart each way.

Only one quarter-section, or its equivalent, could be entered by any one person under this act.

The party making an entry of one quarter-section was required to break ten (10) acres of the land the first year, ten (10) acres the second year, and twenty (20) acres the third year after the date of the entry; and to plant ten (10) acres of timber the second year, ten (10) acres the third year, and twenty (20) acres the fourth year after the date of the entry, and in the same proportion when the entry was for a less area than one quarter-section. Final proof could be made at the expiration of eight (8) years from the date of entry, or at any time within five (5) years thereafter.

In making final entry under this act the party, or, if he be dead, his heirs or legal representatives, must "prove by two credible witnesses that he, she, or they have planted, and for not less than eight years have cultivated and protected," the quantity and character of timber mentioned in this act.

In case of the death of a person who had complied with the provisions of the act for three (3) years the heirs or legal representatives had the option to continue the compliance for the remainder of the eight years and to receive patent accordingly, or to receive patent for forty (40) acres outright by relinquishing all claim to the remainder.

Entries made under the act of March 3, 1873, can be completed, and final proof made under the act of March 13, 1874, upon compliance with the provisions of the latter act.

By the act of May 20, 1876 (19 Stat., 54), amendatory of the act of 1874, it was provided that whenever a party holding a claim or making final proof under said act should prove, by two credible witnesses, that the trees planted and growing on said claim were destroyed by grasshoppers during any one or more years, the time allowed in which to plant the trees and make final proof should be extended the same number of years as the trees planted were so destroyed.

It was also provided that the planting of seeds, nuts, and cuttings should be considered a compliance with the timber-culture act, when such seeds, nuts, and cuttings should be properly and well planted, and the ground properly prepared and cultivated.

It is not necessary under this act that the planting shall be done in one body, "provided the several bodies, not exceeding four in number, planted by measurement, aggregated the amount required and in the time required by the original and amended act."

It was provided that in case the seeds, nuts, or cuttings should not germinate and grow, or should be destroyed by the depredations of grasshoppers, or from other inevitable accident, the ground should be replanted, or the vacancies filled within one year from the first planting. Parties claiming the benefit of this provisoin were to prove, by two good and credible witnesses, that the ground was properly prepared and planted, and that the destruction of the seeds, nuts, or cuttings was caused by inevitable accident.

The act of June 14, 1878 (20 Stats., 113), is an act amendatory of, and, as to all entries made since June 14, 1878, is a substitute for, the act of March 13, 1874.

The following regulations under the timber-culture laws are prescribed—approved by Secretary Lamar July 12, 1887:

1. The only persons who are authorized to make timber-culture entries under the act of June 14, 1878, are heads of families or single persons who have at-

tained the age of twenty-one years, and are citizens of the United States or have declared their intention to become such, and who have made no previous entry under the timber-culture laws.

2. Entries are restricted to one quarter-section or one hundred and sixty acres, which may be portions of contiguous sub-divisions of the section, provided the entry forms a compact body of land.

3. No person can make more than one entry. Timber-culture rights once exhausted cannot be restored by the Commissioner of the General Land Office.

4. No more than one-quarter of any section can be embraced in one entry, and the entire section must be exclusively prairie lands or other lands devoid of timber. The removal of a natural growth of timber will not render land subject to timber-culture entry.

5. A person applying to make a timber-culture entry must file the affidavit prescribed by law, showing his qualifications to make the entry; that the section of land specified in his application is composed exclusively of prairie or other lands devoid of timber; that the entry is made for the cultivation of timber and for his own exclusive use and benefit; that he makes his application in good faith, and not for the purpose of speculation, nor directly or indirectly for the use or benefit of any other person or persons whomsoever; that he intends to hold and cultivate the land and to fully comply with the provisions of the law, and that he has not heretofore made an entry under said timber-culture act or any acts of which said act of 1878 is amendatory.

The following form of affidavit is prescribed:

TIMBER-CULTURE AFFIDAVIT.

LAND OFFICE AT ———,
(*Date*) ———, 18—.

I, ——— ———, of (town or city) ———, county of ———, State (or Territory) of ———, having filed my application No. —— for an entry under the provision of an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" approved June 14, 1878, do solemnly —— that I am the head of a family (or over twenty-one years of age), and a citizen of the United States (or have declared my intention to become such); that I have made personal examination of said land and from my personal knowledge of the same state that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said act; and that I have not heretofore made an entry under this act, or the acts of which this is amendatory.

My post-office address is ———.

——— ———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed to before me at my office in ——— on this ——— day of ———, 18—.

——— ———.

Any person falsely swearing to this affidavit, or to any affidavit required by law or regulations under the timber-culture act, is guilty of perjury, and will be punished as the law provides for such offense.

6. The foregoing affidavit, and the non-mineral affidavit, can be made only upon the personal knowledge of affiant, and neither of said affidavits can be made by any other person than the applicant himself.

7. Non-mineral affidavits will be required in all timber-culture entries in districts in which non-mineral affidavits are required in other cases of agricultural entry, and must in every instance accompany the original entry application, and must be made at the same time and place and before the same officer as the original timber-culture affidavit.

8. All affidavits required under the timber-culture laws must be made before the register or the receiver or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated. Timber culture affidavits executed or signed outside of the district in which the land is situated, or executed or signed in blank, are illegal. Every affiant must be sworn personally by the officer taking the affidavit, at his office, and at the date specified in the jurat; and the officer taking the affidavit must certify that the person was so sworn and that the same was read in full to affiant before he affixed his signature thereto; and the attesting officer must certify to the identity and credibility of the party appearing before him.

9 Timber-culture entries cannot be made for mineral lands, nor for lands within the limits of townsites, or covered by municipal improvements.

10. Before allowing any entry applied for, the register and receiver will, by a careful examination of the tract and plat books, satisfy themselves that the entry applied for will not conflict with any other entry or entries previously made. They will require the party to pay the fee and that part of the commission payable at the date of entry, for which the receiver will issue his receipt in duplicate (form 4-142), giving the duplicate receipt to the party.

11. The payments required by law on a timber-culture entry are as follows: For eighty acres or less, fee $5, to be paid at date of entry; commissions, $4; total, $9. For more than eighty acres, fee $10 at date of entry; commissions, $4; total, $14. Besides, in each case, $4 when final proof is made. No other fee, charge, gratuity, or reward is permitted to be paid or received for any services rendered at district land offices in connection with such entries. The receiver will account for the fees and commissions in the usual manner, indicating the same as fees and commissions on timber-culture entries. No distinction is made, as to area or the amount of fee and commissions, between minimum and double minimum lands. The register and receiver will number the entry in its order and proper series of numbers and will note the entry on their records and report the same in their monthly returns, sending up all the papers therein, with an abstract of the entries allowed during the month.

12. Five acres on a quarter-section must be broken or plowed the first year, and five acres the second year. The second year the first five acres must be cultivated to crop or otherwise. The third year the second five acres must be cultivated to crop or otherwise, and the first five acres must be planted in timber, seeds, or cuttings. The fourth year the second five acres must be planted in timber, seeds, or cuttings. Ten acres are thus to be plowed, planted, and cultivated on a quarter-section, and the same proportion when less than a quarter-section is entered. The whole ten acres or the due proportion thereof must be prepared and planted within four years from the date of entry, five acres being prepared the first and second years and planted the third year, and five acres being prepared the second and third years and planted the fourth year.

13. The preparation of the ground by breaking and cultivation to crops must be thorough. The plowing must be done at the proper season of the year and must be sufficiently deep to thoroughly break and mix the soil, and the cultivation to crop must be actual and *bona fide*. The object of the law is to promote the cultivation of timber, and land not made fit, by careful and thorough preparation, to produce a growth of trees, is not prepared as contemplated by law, and a failure to strictly comply with the law renders the entry liable to contest.

14. Trees, tree seeds, or cuttings must be of suitable character to germinate and grow with proper cultivation, and must be carefully and properly set out or planted, and at a proper season of the year to ensure growth, and must be carefully and thoroughly cultivated.

15. Where land is selected for timber-culture entry which in its natural state will not produce trees without irrigation, the ground will not be regarded as properly prepared nor the trees as properly cultivated unless the land is irrigated and the trees kept watered.

16. Where the ground is properly prepared and cultivated, and the planting of suitable trees, seeds, or cuttings is well and seasonably done, and the same should not germinate and grow, the ground must be replanted and vacancies filled the same or next succeeding season. If the trees, seeds, or cuttings are destroyed by grasshoppers or by extreme unusal droughts, the time of planting may be extended one year for every year of such destruction, upon the filing in the local office of an affidavit by the entryman, corroborated by two witnesses, setting forth the destruction and asking the extension of time provided for by the act.

17. The offering of relinquishments for sale after entry will be regarded and treated as evidence tending to prove the fraudulent or speculative character of the entry.

18. The following classes of trees are recognized as "timber" within the meaning of the law, viz: Ash (including mountain ash, or service tree), alder, basswood, beech, birch, box elder, black walnut, butternut (otherwise called white walnut), cedar, chestnut, cottonwood, elm, fir, hickory, honey locust, larch, maple, oak, pine, spruce, sycamore (otherwise called buttonwood, or cotton tree), white wollow, whitewood (or tulip tree); and other trees recognized in the neighborhood as of value for timber, for firewood or domestic use or for commercial purposes. Fruit trees, hedges, and shrubbery cannot be classed as "timber," and their cultivation is not sufficient to satisfy the demands of the law.

19. Final proof can be made at the expiration of eight years from date of entry, or at any time within five years thereafter. In making final proof it must be shown:

First. That not less than twenty-seven hundred (2,700) trees of the proper character were planted on each acre required to be planted.

Second. That the quantity and character of trees as aforesaid have been cultivated and protected for not less than eight years preceding the time of making proof.

Third. That at the time of making proof there are growing at least six hundred and seventy-five (675) living and thrifty trees to each acre.

20. Perfect good faith must be shown by claimants. If trees, seeds, or cuttings are destroyed they must be replanted; and not only must trees be planted, but they must be protected and cultivated in such manner as to promote their growth.

21. All entries since June 14, 1878, are made under the act of that date. Parties who made entries under any of the former acts may complete the same and make final proof under the act of 1878, upon showing that they have had under cultivation, for at least eight years the number of acres required by the act of 1878, and at the time of presenting final proof have the number of living and thrifty trees required thereby; but they need not show that they followed the manner of planting prescribed by the later act, if the planting was done in accordance with the requirements of any one of the preceeding acts.

22. In computing the period of cultivation the time runs from the date when the total number of trees, seeds, or cuttings required by the act are planted.

23. Hereafter parties desiring to offer final proof in timber-culture cases will be required to file a notice of their intention with the register of the proper district land office, and the same shall be published in the same manner as in homestead and pre-emption cases.

24. In making final proof the claimant (or, if he be dead, his heirs or legal representatives) must appear in person with at least two witnesses at the land office of the district in which the land is situated, and there make the necessary proofs; or the affidavit of the party may be made, and his testimony, and the testimony of his witnesses, given before a judge or clerk of a court of record in

such land district, but all the proof must be taken at the same time and place and before the same officer.

25. The officer administering the oath or taking the testimony must certify to the identity and credibility of the party appearing before him.

26. The proof must set forth specifically and in detail all the facts of the case, showing when cultivation was commenced, the acts performed, amount of land plowed, cultivated, and planted, what was done in each year, the total number of trees planted, the total number growing, and their size and condition at date of proof, and other facts or circumstances material to the case. (Forms 4–093, 4–385, and 4–386).

27. The register and receiver will carefully examine the evidence, and, if found sufficient to show that the claimant has fully complied with the law, they will proceed (on payment of the final commissions allowed by law) to issue the final certificate and receipt in the manner prescribed in forms 4–148 and 4–217.

28. Contests may be instituted against timber-culture entries for illegality or fraud in the inception of the entry, for failure to comply with the law after entry, or for any sufficient cause affecting the legality or validity of the claim. (See Rule 1, *et seq.*, of Practice, approved August 13, 1885.)

29. Contestants of timber-culture entries since the adoption of the foregoing rules of practice are not required to file an application to enter the land at the time of the initiation of contest, but the successful contestant secures a preference right of entry under the second section of the act of May 14, 1880—12 Stat., 140. (This regulation overrules the decision in Bundy *vs.* Livingston, 1 L. D. Rev. Ed., 152.)

30. No land acquired under the provisions of the act of June 14, 1878, will in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

31. Applicants to make timber-culture entries, and claimants and witnesses making final proof, must in all cases state their place of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if residence is in a city the street or number must be given.

32. Nothing herein will be construed to have a retroactive effect in cases where the official regulations of this Department in force at the date of entry were complied with.

TIMBER-CULTURE RULINGS.

Circular of February 1, 1882, with blank forms. 1 L. D., 638; No. 44

Good faith an essential. 1 L. D., 148; No. 1781.

Work may be done at any time within the required period. 1 L. D., 137; No. 1774.

Work may be done by an agent, but the entryman will be responsible therefor. 1 L. D., 120; No. 1755.

Work may be done by entryman, his agent, or his vendor. 1 L. D., 137; No. 1774.

Entry made in arid country, at the claimant's risk. 1 L. D., 123; No. 1759.

Requirements of the law may not be waived by the General Land Office. 1 L. D., 120; No. 1755.

As late as 1879 the cottonwood was not classed among timber trees. 1 L. D., 165; No. 1799.

The honest efforts of the entryman will be protected. 1 L. D., 142; No. 1778.

The act of 1874 did not specify the character of the land subject to entry, but left such matter to the regulation of the General Land Office. 1 L. D., 165; No. 1799.

Rights of deceased claimant descend to the heirs and not to the widow. 1 L. D., 121, 127, 136; Nos. 1756, 1765, 1773.

Rights of the widow under Kansas laws. 1 L. D., 149; No. 1782.

Entryman not required to reside in the State or Territory wherein the land is situated. 1 L. D., 148; No. 1781.

Requirements of the law like that of the pre-emption law in certain respects indicated. 1 L. D., 142; No. 1778.

Breaking may be done in advance of time required. 1 L. D., 137; No. 1774.

Failure to break not excused by reason of drought. 1 L. D., 141; No. 1777.

Mistake as to amount broken excused. 1 L. D., 126; No. 1762.

Breaking in Colorado possible without irrigation. 1 L. D., 123; No. 1759.

Breaking done under previous entry fully available. 1 L. D., 137; No. 1774; but see Nos. 1890, 1960.

Planting of first five acres must be done third year. 1 L. D., 135; No. 1771.

Slight failure to plant excused. 1 L. D., 130; No. 1767.

Replanting must follow when trees are destroyed. 1 L. D., 128; No. 1766.

Cultivation is such care and attention as will best promote the healthy growth of trees. 1 L. D., 130; No. 1767.

Mulching may be regarded as cultivation. 1 L. D., 130; No. 1767.

Replowing of five acres second year treated as cultivation. 1 L. D., 135; No. 1771.

Want of cultivation not presumed from the small number of trees growing at the end of three years. 1 L. D., 127; No. 1765.

Effective cultivation must be shown. 1 L. D., 117; No. 1802; but see No. 135 overruling 1785 (Bundy).

Entry may be made by a deserted wife (with children) as the head of a family. 2 L. D., 311; No. 1857.

May be made by a citizen, who, when an alien, innocently made a prior entry which was canceled for non-compliance with law. 2 L. D., 250; No. 1819.

May be made by one whose former entry was canceled because made on land occupied and improved by another. 2 L. D., 118; No. 294.

May be made where causes beyond the entryman's control (the establishment of a cattle trail) destroyed the land first entered for timber-culture purposes. 2 L. D., 327; No. 1800.

May be made by one who was not allowed to amend a former entry, because of the interposition of other rights, where the equities were with him. 2 L. D., 253, 254; Nos. 1804, 1811.

May be made by a local officer, or clerk, but not by a special agent, in a district other than that in which he is stationed. 2 L. D., 313; No. 1814.

Entry allowed during pendency of contest may stand, there being now no adverse right (see 2 L. D., p. 55). 2 L. D., 244; No. 1856.

Will not be allowed where there is a prior entry in the same section, though contest against it is pending. 2 L. D., 34; No. 403.

May be allowed where there is a prior timber-culture entry which is illegal (because of conflict with a certified entry) and cannot go to patent. 2 L. D., 256; No; 1839.

May be made on land covered by a pre-emption filing, and takes the land on failure by the pre-emptor to make final proof in the time required. 2 L. D., 593; No. 1081.

By contestant of a homestead entry, may be for part of the land and contiguous land; by contestant of a timber-culture entry, is restricted to land in contest, unless less than 160 acres, when contiguous land may be included. 2 L. D., 289; No. 348; but see 135 overruling 1785 (Bundy).

Must be made in a section "composed exclusively of prairie lands, or other lands devoid of timber," that is composed of lands naturally devoid of timber. 2 L. D., 271; No. 1826.

Whether a given section is devoid of timber is to be determined by inquiring whether nature has provided timber which in time will become an adequate supply for the wants of the people likely to reside on it. 2 L. D., 267; No. 1809; but see no 1997.

Where the timber growing in a section is confined to fixed limits, with no prospects of spreading, and is inadequate in quantity (500 trees), entry is allowed. 2 L. D., 268; No. 1809; but see No. 1997.

May be made where the trees (450), confined to the margin of a stream, at maturity become unfit for use as timber (decayed at the heart). 2 L. D., 272, 274; Nos. 1829, 1841; but see No. 1997.

May be made where the trees (200), confined to a point of land between two sloughs, were dead, dying, or decaying at the top. 2 L. D., 273; No. 1838; but see No. 1997.

May be made where there are but a hundred, or a half-acre of, trees confined to the margin of a stream. 2 L. D., 274; No. 1841; but see No. 1997.

A section where there was formerly an adequate supply (40 acres) of naturally-growing timber, which has been cut, is not devoid of timber. 2 L. D., 270; No. 1826.

Where applicant proves that the markings on the plats, showing timber, were erroneous, entry should be allowed as of date of application. 2 L. D., 850; No. 1816.

Entryman under act of 1874 became entitled to benefits of act of 1878 (as to area to be cultivated) at date of its passage. 2 L. D., 280; No. 1812.

The entryman is entitled to a full year, exclusive of the day of entry, in which to break the first five acres. 2 L. D., 249, 295; Nos. 1859, 1838.

The purpose of the law is attained by a thorough overturning of the entire area, whether by plowing or otherwise (grubbing), so as to fit it for cultivation. 2 L. D., 264; No. 1852.

When one enters land with knowledge of its unfitness for tree culture, he will be held to a strict compliance with the requirements of law (breaking). 2 L. D., 265; No. 1852.

Hoeing around young trees and permitting a growth of grass and weeds between them, which is necessary to insure their protection in a cold climate, satisfies the law. 2 L. D., 305; No. 1813.

Whilst the requirements of the law must be carried out fully, nevertheless the object of the law, "to encourage the growth of timber," should always be kept in view in determining the question of compliance with them. 2 L. D., 306; No. 1813.

The entryman is not to be held responsible for an incendiary fire or for a flood, which destroys his trees. 2 L. D., 307; No. 1850.

Unfavorable weather excuses the failure of the planting, where diligence in remedying it was exercised. 2 L. D., 314; No. 1821.

At the moment of default the land is open to entry by the first legal claimant, notwithstanding that an illegal contest is pending against it. 2 L. D., 266, 283, 297, 318; Nos. 1870, 1820, 1843, 1868; see No. 135 overruling No. 1785 (Bundy).

If the entryman has cured or begun to cure the default in good faith, contest will not lie. 2 L. D., 262, 263, 302; Nos. 1806, 1827, 1861; see Nos. 1991, 1896.

It is the duty of the Land Department to see that the trees are of such size as to render their continued growth without further cultivation or protection reasonably certain. 2 L. D., 310; No. 1862.

The time consumed in preparing the land and planting the trees is computed as part of the required eight years of cultivation and protection. 2 L. D., 309; No. 1862; but see No. 135.

At the expiration of the eight years from date of entry one-half of the trees (3,875) must have been growing for five years, and the remaining half for four years. 2 L. D., 310, 328; Nos. 1862, 1867; but see No. 135.

When the trees (22,600) are not of a satisfactory growth at the end of eight years, without fault of the entryman, the law allows him five years additional time. 2 L. D., 309, 328; Nos. 1862, 1867.

Facts in relation to the growth and size of box elder, ash, and catalpa trees. 2 L. D., 310; No. 1862.

That the natural growth is small and has been partly destroyed by fire does not affect the question as to whether the land is devoid of timber. 3 L. D., 144; No. 1877.

"An adequate supply" exists under the rule in Blenkner *vs.* Sloggy to the exclusion of an entry, where the natural growth is equivalent to the amount

required to be cultivated by the entryman. 3 L. D., 144; No. 1877; but see No. 1997.

Poplar regarded as a timber tree. 3 L. D., 145; No. 1877.

Applicant for entry is bound under the law to know that the land is subject to entry. 3 L. D., 152; No. 1880; but see 1155.

Entry confined to one quarter in a section. 3 L. D., 182; No. 1883.

Good faith in cultivation required. 3 L. D., 398; No. 1899.

Under the law a person may make but one entry. 3 L. D., 185; No. 1884.

The eight years of cultivation commence with the first breaking. 3 L. D., 260; No. 1889; but see No. 135.

Land shown by field notes to be timber land not subject to entry. 3 L. D., 361; No. 1885.

Entry of land in different sections not allowed. 3 L. D., 361; No. 1885.

Entry not canceled, though but eight and one-half acres were in cultivation. 3 L. D., 365; No. 1887.

Where through mistake but eight and three-quarters acres, were broken in the first two years the entry was not canceled. 3 L. D., 372; No. 1896.

The number of trees required at final proof a guide in determining whether land is excluded from entry by reason of the natural growth. 3 L. D., 437; No. 1902.

Breaking done by prior occupant may be utilized by the entryman. 3 L. D., 482; No. 1881; see Nos. 1890, 1960.

Breaking by prior occupant must be used by entryman if he claims credit therefor. 3 L. D., 483; No. 1890; see No. 1960.

Entryman should comply with the law during the pendency of contest. 3 L. D., 486; No. 1904.

Failure to break and cultivate, where caused by the wrong of contestant, excused. 3 L. D., 487; No. 1904.

Work done by the entryman's vendor or agent equivalent to work done by himself. 3 L. D., 502; No. 1906; see Nos. 1890, 1960.

Entry not canceled where seeds failed to grow. 3 L. D., 584; No. 1911.

Applicant for entry not required to furnish more than the statutory evidence to show that he has declared his intention of becoming a citizen. 3 L. D., 606; No. 1913.

Substantial compliance with the law held satisfactory. 4 L. D., 205; No. 1921.

Strict compliance not required where good faith is shown. 4 L. D., 494; No. 1957.

Entryman not held responsible for the results of incendiarism or destruction by the floods. 4 L. D., 164; No. 1873.

Droughts as an excuse for non-compliance with the law. 4 L. D., 346; No. 1941.

Work required may be done by agent. 4 L. D., 493; No. 1957.

Failure of agent to perform work no defense against the charge of non-compliance. 4 L. D., 493; No. 1957.

Agent of entryman may not take advantage of his own wrongful act to contest the entry. 4 L. D., 494; No. 1957.

At the end of second year there must be 10 acres broken. 4 L. D., 303; No. 1937.

Entryman may utilize breaking on land at time of entry. 4 L. D., 175, 543; Nos. 1924, 1960, 1890.

Acts of previous entryman must be properly followed up if credit is claimed therefor. 4 L. D., 542; No. 1960.

Failure to properly distribute the trees not cause for cancellation. 4 L. D., 162; No. 1873.

Planting of previous entryman available. 4 L. D., 291, 543; Nos. 1935, 1960, 1890.

Failure to replant two acres destroyed by fire excused, it appearing that the entryman had the trees for such replanting under cultivation. 4 L. D., 163; No. 1873.

Breaking and planting may done in advance of the required time. 4 L. D., 175, 303; Nos. 1924, 1937.

Acts of cultivation should show good faith. 4 L. D., 174; No. 1923.

Such method of cultivation should be adopted as will secure the best results. 4 L. D., 162; No. 1873.

That the area cultivated in trees in excess of 10 acres is not material. 4 L. D., 90; No. 1916.

Inattention to trees after planting evidence of bad faith. 4 L. D., 174; No. 1923.

Failure to cultivate may not be taken advantage of by one employed to perform such act. 4 L. D., 205; No. 1921.

Must show good reason in case of failure to comply with law. 5 L. D., 363; No. 1982.

The heirs of a deceased entryman must show compliance with the law. 5 L. D., 398; No. 1985.

That the natural growth of timber is restricted by annual fires does not render the section containing such growth subject to entry. 5 L. D., 689; No. 1992.

Sowing tree seeds broadcast not in compliance with law. 5 L. D., 8; No. 1965.

Method of cultivation varies with the locality. 5 L. D., 9; No. 1965.

Cultivation must show good faith. 5 L. D., 40, 329; Nos. 1966, 1980.

Pendency of a contest no excuse for failure to comply with the law. 5 L. D., 104; No. 1967.

The act of 1878 extended rights secured under the former acts. 5 L. D., 233; No. 1972.

Rights acquired under former rulings as to the character of land subject to entry not disturbed. 5 L. D., 261, 689; Nos. 1974, 1992.

Compliance with law must be shown pending application for amendment. 5 L. D., 349; No. 1981.

Planting should be done when the ground is in proper condition. 5 L. D., 363; No. 1982.

Natural growth of timber on the section precludes entry. 6 L D., 217; No. 1997.

DESERT LANDS.—SPECIAL AND GENERAL LEGISLATION.

The act of March 3, 1875, providing for the sale of desert lands in Lassen county, California, permitted the entry of 640 acres of land, and required that water be put upon the same by claimants, and the land paid for at the rate of $1.25 per acre, within two years.

March 3, 1877, Congress enacted the "desert land act," which applies to California, Oregon, Nevada, and Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota.

The latter act is expounded in official regulations approved by Secretary Lamar June 29, 1887, as follows, viz:

The first section of the act of March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," provides for the reclamation of such lands by "conducting water upon the same." The second section provides "that all lands exclusive of timber lands and mineral lands which will not, without artificial irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of the act," and the third section provides that "the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office."

It is therefore prescribed as follows:

1st. Lands bordering upon streams, lakes, or other natural bodies of water, or through or upon which there is any river, stream, arroyo, lake, pond, body of water, or living spring, are not subject to entry under the desert land law until the clearest proof of their desert charater is furnished.

2d. Lands which produce native grasses sufficient in quantity, if unfed by grazing animals, to make an ordinary crop of hay in usual seasons are not desert lands.

3d. Lands which will produce an agricultural crop of any kind, in amount to make the cultivation reasonably remunerative, are not desert.

4th. Lands containing sufficient moisture to produce a natural growth of trees, are not to be classed as desert lands.

1. The amount of land which may be entered by any one person under the desert land act cannot exceed one section, or six hundred and forty acres, which must be in compact form, and no person can make more than one entry.

2. Desert land entries are not assignable, and the transfer of such entries whether by deed, contract, or agreement, vitiates the entry. An entry made in the interest or for the benefit of any person, firm or corporation, orwith intent that the title shall be conveyed to any other person, firm, or corporation, is illegal.

3. The price at which lands may be entered under the desert land act is the same as under the pre-emption law, viz: Single minimum lands at $1.25 per acre, and double minimum lands at $2.50 per acre. (Section 2357, U. S. Revised Statutes.)

4. A party desiring to avail himself of the privileges of the desert land act must file with the register and receiver of the proper district land office a declaration, under oath, setting forth that the applicant is a citizen of the United States or that he has declared his intention to become such. In the latter case a duly certified copy of his declaration of intention to become a citizen must be presented and filed. It must also be set up that the applicant has not previously exercised the right of entry under the provisions of this act, and that he intends to reclaim the tract of land applied for by conducting water thereon within three years from date of his declaration. The declaration must also contain a description of the land applied for, by legal sub-division if surveyed, or if unsurveyed as nearly as possible without a survey, by giving with as much clearness and precision as possible the locality of the tract with reference to the already established lines of survey, or to known and conspicuous landmarks, so as to admit of its being readily identified when the lines of survey come to be extended.

5. Your attention is called to the terms of this declaration as provided by existing regulations (Form 4–274), which are such as require a personal knowledge by the entryman of lands intended to be entered. The required affidavit cannot be made by an agent nor upon information and belief, and you will hereafter reject all applications in which it does not appear that the entryman made the averments contained in the sworn declaration upon his own knowledge derived from a personal examination of the lands. The blank in the declaration, to wit, "that I became acquainted with said land by ——," must be filled in with a full statement of the facts of his acquaintance with the land and how he knows its character as alleged. Said declaration must be corroborated by the affidavits of two reputable witnesses who are acquainted with the land and with the applicant, and who must clearly state their acquaintance with the premises, and the facts as to the condition and situation of the land upon which they base their judgment (Form 4–074).

6. Applicants and witnesses must in all cases state their places of actual residence, their business or occupations, and their post office addresses. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if a residence is in a city the street and number must be given.

7. The declaration and corroborating affidavits may be made before either the register or receiver of the land district in which the lands are situated, or before the judge or clerk of a court of record of the county in which the lands are situated, and if the lands are in an unorganized county then the affidavit may be be made in an adjacent county. The depositions of applicant and witnesses in making final proof must be taken in the same manner; and the authority of any practice or regulation permitting original or final desert land affidavits to be executed before any other officers than those named above, is hereby revoked. The affidavits of applicant and witnesses must in every instance, either of original application or final proof, be made at the same time and place and before the same officer.

8. When proof of the character of the land has been made as above required to the satisfaction of the district officers, the applicant will pay the receiver the sum of twenty-five cents per acre where the land is single minimum, and fifty cents per acre where the land is double minimum. The register will receive and file his declaration, and the register and receiver will jointly issue, in duplicate, a certificate (Form 4-199) acknowledging the receipt of the twenty-five or fifty cents per acre, as the case may be, and the filing of the declaration. One of these duplicates will be delivered to applicant; the other will be retained by the register and receiver with the declaration and proof. They will bear a number according to the order in which the certificate was issued. The register will keep a record of the certificates issued, showing the number, date, amount paid, name of applicant, and description of the land applied for in each case, and, in addition, he will note the same upon his plats and records as in cases of ordinary entry. At the end of each month he will, with his regular returns, forward to the General Land Office an abstract of the declarations filed and certificates issued under this act during the month, accompanying same with the declarations and proofs filed and the retained copy of certificate in each case. The receiver will also account for the money received under this act in the usual form.

9. Surveys of desert land claims cannot be made in advance of the regular progress of the public surveys. After a township has been surveyed the claim must be adjusted to the lines of the survey.

10. Persons making desert land entries must acquire a clear right to the use of sufficient water for the purpose of irrigating the whole of the land, and of keeping it permanently irrigated. A person who makes a desert land entry before he has secured a water right, does so at his own risk; and as one entry exhausts his right of entry, such right cannot be restored or again exercised because of failure to obtain water to irrigate the land selected by him.

11. The source and volume of the water supply, how acquired and how maintained, the carrying capacity of the ditches, and the number and length of all ditches on each legal sub-division of the land, must be specifically shown. Applicant and witnesses must each state in full what has been done in the matter of reclamation and improvement, and by whom, and must each answer fully and of their own personal knowledge, the questions propounded in the final proof depositions. They must state specifically whether they at any time saw the land effectually irrigated, for without knowledge thus derived, the fact of reclamation remains a matter of conjecture. (Case of Charles H. Schick, 5 L. D., 151.)

12. The whole tract and each legal sub-division for which proof is offered must be actually irrigated. If there are some high points or uneven surfaces which are practically not susceptible of irrigation, the nature, extent, and area of such spots must be fully stated. In this connection, the right of the water used, the quantity of it, the manner of its distribution, and the permanence of the supply are all to be taken into consideration. (Case of Geo. Ramsey, 5 L. D., 120.)

13. Before final proof shall hereafter be submitted by any person claiming to enter lands under the desert land act, such person will be required to file a notice of intention to make such proof which shall be published in the same manner as required in homestead and pre-emption cases.

14. Contests may be instituted against desert land entries for illegality or fraud in the inception of the entry, or for any sufficient cause affecting the legality or validity of the claim. Contestants will be allowed a preference right of entry for thirty days after notice of the cancellation of the contested entry, in the same manner as in homestead and pre-emption cases, and the register will give the same notice and be entitled to the same fee for notice as in other cases.

15. When relinquishments of desert land entries are filed in the local land office the entries will be canceled by the register and receiver in the same manner as in homestead, pre-emption, and timber-culture cases, under the first section of the act of May 14, 1880. (21 Stat., 140.)

16. Nothing herein will be construed to have a retroactive effect in cases where the official regulations of this Department in force at the date of entry were complied with.

DESERT LAND RULINGS.

It is not reclaimed unless water in sufficient quantity for cultivation is carried upon the land. 1 L. D., 26; No. 138; see Nos. 150, 153, 162, 163, 167.

Title to water used for reclamation must be by *bona fide* prior appropriation. 1 L. D., 26; No. 138; see Nos. 150, 153, 162, 163, 167.

The word "reclaim" considered and defined. 1 L. D., 26; No. 138; see Nos. 150, 153, 162, 163, 167.

Reclamation shown by crops actually raised. 1 L. D., 26; No. 138; see Nos. 150, 153, 162, 163, 167.

Land which produces grass suitable for hay, and is of the same general character as neighboring lands which have produced agricultural crops without irrigation, is not. 2 L. D., 18; No. 141.

Land which produces a crop, though an inferior one, whether of grass, wheat, barley, or other crop to which the soil and climate are adapted, which is a fair reward for the expense of producing it, is not. 2 L. D., 19; No. 142.

Land which, one year with another, for a series of years, will not, without irrigation, make a fair return to the careful, ordinarily skillful, and industrious husbandman, is. 2 L. D., 19; No. 142.

Land which, without irrigation, fails year after year to return even the seed, and which yields crops of grain of so poor a quality that they must be cut for hay, is. 2 L. D., 20; No. 142.

Lassen county, California, lies in a section of the country designated by Powell as "the arid region." 2 L. D., 21; No. 142.

The law restricts one person to an entry of one tract, in a compact form, not exceeding 640 acres. 2 L. D., 22; No. 143.

Three entries, aggregating 1,760 acres, not reclaimed within three years, assigned to a third person on day of entry, and appearing to have been made for the benefit of the assignee, were made in fraud of the law. 2 L. D., 22; No. 143.

Want of harmony between decision of Department and circular of March 12, 1877, pointed out. 2 L. D., 24; No. 143.

Failure to reclaim for four years after entry shows an entire want of good faith. 2 L. D., 18; No. 141.

The water conveyed upon the land must be in quantity sufficient to prepare it for cultivation. 2 L. D., 692; No. 1005.

The conversion of a worthless tract into grass bearing land constitutes reclamation. 3 L. D., 9; No 145.

Entry will not be disturbed where the default in reclamation is cured before contest is brought. 3 L. D., 9; No. 145.

The only reclamation specified in the act is by conducting water upon the land. 3 L. D., 9; No. 145.

There is no penalty provided for failure to reclaim, but, in the place of forfeiture, the purchaser is required to advance a part of the purchase price as an assurance of good faith. 3 L. D., 9; No. 145.

Entries for, treated as pre-emptions under the act of May 14, 1880. 3 L. D., 71; No. 146; see also Nos. 134, 170, 171.

Assignments of entries, made while the rule was in force, allowing the same, will be protected. 3 L. D., 214; No. 147; see also Nos. 140, 143, 161, 164.

Where an assignment of entry is recognized, the assignee will be entitled to all the rights of the entryman. 3 L. D., 215; No. 147.

But 640 acres may be acquired by one person under the act. 3 L. D., 215; No. 147.

Patent for, upon an assigned entry, will issue in the name of the entryman. 3 L. D., 216; No. 147.

Only surveyed in the course of public survey except under Sec. 2401 R. S. 3 L. D., 325, 331; Nos. 148, 95; see No. 149.

Will not be surveyed under the deposit system, without showing settlement. 3 L. D., 331; No. 149.

Lands that naturally produce grass are not. 4 L. D., 33; No. 152.

Lands partly desert and partly agricultural cannot be entered under the desert act. 4 L. D., 33; No. 152.

Partial reclamation prior to application calls for special showing as to the facts. 4 L. D., 165; No. 154.

Reclaimed land not subject to entry. 4 L. D., 165; No. 154.

Case of Rivers *vs.* Burbank cited and distinguished. 4 L. D., 165; No. 154.

Entry for, in the interest of another not permitted. 4 L. D., 445; No. 159.

Transfers before patent to be inquired into. 4 L. D., 34; No. 152.

Clear proof as to the character of the land required where the field notes describe it as "first rate" and the plat shows a river crossing the section. 4 L. D., 261; No. 155.

Circular regulations, June 27, 1887. 5 L. D., 708; No. 134.

Entry in good faith may include some non-irrigable land. 5 L. D., 481; No. 167.

Entry of, may not embrace timber land. 5 L. D., 595; No. 168.

If taken under the homestead law compliance with its terms must be shown. 5 L. D., 296; No. 585.

Right to take before survey and effect of. 5 L. D., 527; No. 1634.

Assignments before final proof recognized prior to April 15, 1880. 5 L. D., 21, 595; Nos. 161, 168; see also Nos. 147, 140, 143, 164.

One person cannot take more than 640 acres, either as entryman or assignee. 5 L. D., 19, 21, 167, 595; Nos. 161, 164, 168.

Patent will issue to entryman though assignment is recognized. 5 L. D., 167; No. 164.

Assignment of entry made under the former rulings of the Department recognized. 5 L. D., 167, 595; Nos. 164, 168.

Desert land entry by married woman admissible. 6 L. D., 14; No. 172.

TIMBER AND STONE LANDS.

The provisions of the act for the sale of lands chiefly valuable for timber and stone and unfit for cultivation are stated, and the manner of provisions thereunder sufficiently pointed out in regulations approved by Secretary Lamar July 16, 1887, as follows, viz:

1. The act of June 3, 1878 (30 Stat., 89), for the sale of timber lands in the States of California, Oregon and Nevada, and in Washington Territory, limits the quantity of land which may lawfully be acquired under the act by any one person or association, to not exceeding 160 acres.

2. The land must be valuable chiefly for timber (or stone) and unfit for cultivation if the timber were removed.

3. It must be unoffered, unreserved, unappropriated and uninhabited, and without improvements (except for ditch or canal purposes), save such as were made by, or belong to the applicant.

4. Lands containing valuable deposits of gold, silver, cinnabar, copper or coal, are not subject to entry under this act.

5. One entry or filing only can be allowed any person, or association of persons. A married woman may be permitted to purchase under said act, provided the laws of the State or Territory in which the entry is made permit a married woman to purchase and hold real estate as a *feme sole* but in addition to the proofs already provided for, she shall make affidavit at the time of entry that she proposes to purchase said land with her separate money, in which her husband has no interest or claim; that said entry is made for her sole and separate use and benefit; that she has made no contract or agreement whereby any interest whatever therein will inure to the benefit of her husband, or any other person and that she has never made an entry under said act, or derived or had

any interest whatever, directly or indirectly in or from a former entry made by any person or association of persons.

6. A person applying to purchase a tract under the provisions of this act is required to make affidavit before the register or receiver that he has made no prior application under this act; that he is by birth or naturalization a citizen of the United States, or has declared his intention to become a citizen. If native born, parole evidence to that fact will be sufficient; if not native born, record evidence of the prescribed qualification must be furnished. The affidavit must designate by legal subdivisions the tract which the applicant desires to purchase, setting forth its character as above; stating that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, (if any exist), save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title he may acquire from the Government of the United States shall inure in whole or in part, to the benefit of any person except himself.

7. Every person swearing falsely to any such affidavit is guilty of perjury and will be punished as provided by law for such offense. In addition thereto, the money that may be paid for the land is forfeited, and all conveyances of the land or of any right, title, or claim thereto, are absolutely null and void as against the United States.

8. The sworn statement before the register and receiver required as above (section 2 of the act) must be made upon the personal knowledge of applicant, except in the particulars in which the statute provides that the affidavit may be made upon information and belief.

9. You will in every case read this affidavit to applicant, or cause it to be read to him in your presence before he is sworn or his signature is attached thereto.

10. The published notice required by the third section of the act must state the time and place when, and name the officer before whom, the party intends to offer proof, which must be after the expiration of the sixty days of publication, and before ninety days from the date of the published notice. Where proof is not made before the expiration of said ninety days the register and receiver will cancel the filing upon their records and notify this office accordingly, as prescribed by instructions of circular of May 1, 1880, (Copp's Land Owner, vol. 7, p. 52).

11. The evidence to be furnished to the satisfaction of the register and receiver at time of entry, as required by the 3d section of the act, must be taken before the register or receiver, and will consist of the testimony of claimant, corroborated by the testimony of two disinterested witnesses. The testimony will be reduced to writing by you upon the blanks provided for the purpose, after verbally propounding the questions set forth in the printed forms. You will test the accuracy of affiant's information and the bona fides of the entry, by close and sufficient oral examination. You will especially direct such examination to ascertain whether the entry is made in good faith for the appropriation of the land to the entryman's own use, and not for sale or speculation, and whether he has conveyed the land or his right thereto, or agreed to make any such conveyance or whether he has directly or indirectly entered into any contract or agreement in any manner with any person or persons whomsoever by which the title that may be acquired by the entry shall inure in whole or in part to the benefit of any person or persons except himself. You will certify to the fact of such oral examination, its sufficiency, and your satisfaction therewith.

12. Your attention is called to the instructions of this office of August 19, 1884, addressed to the register and receiver at Humboldt, California (3 L. D., 84), in respect to scrutiny of applications and entries, the examination of par-

ties and witnesses, and your duty in accepting, rejecting and reporting such applications and entries; and you will strictly follow and be governed by said instructions.

13. The entire proof must be taken at one and the same time, and payment must be made at the time of offering proof. Proofs will in no case be accepted in the absence of a tender of the money; and the register's certificate will in no case be given to the party or his attorney, but must be handed directly to the receiver by the register; and no note will be made upon the plats or tract books until the receiver's receipt has been issued. The proof, certificate, and receipt must in all cases bear even date.

14. When an adverse claim, or any protest against accepting proof or allowing an entry, is filed before final certificate has been issued, you will at once order a hearing and will allow no entry until after your written determination upon such hearing has been rendered. You will report your final action in all protest and contest cases and transmit the papers to this office.

15. After certificate has been issued, contest, applications and protests will be submitted to this office as in other cases of contest after final entry.

16. Contests may be brought against timber and stone land applications or entries in accordance with Rule 1 of Rules of Practice, either by an adverse claimant or by any other person, and for any sufficient cause affecting the legality or validity of the filing, entry, or claim.

17. In case of an association of persons making application for an entry under this act each of the persons must prove the requisite qualifications, and their names must appear in the sworn statement, as in case of an individual person. They must also unite in the regular application for entry, which will be made in their joint names as in other cases of joint cash entry. The forms prescribed for cases of applications by individual persons may be adapted for use in applications of this class, and the sworn statement as to the character of the land may be made by one member of the association upon his personal knowledge.

18. No person who has made an individual entry or application can thereafter make one as a member of an association, nor can any member of an association making an entry or application be allowed thereafter to make an individual entry or application.

19. Applicants to make timber land entries, and claimants and witnesses making final proof, must in all cases state their place of actual residence, their business or occupation, and their post office address. It is not sufficient to name the county and State or Territory where a party lives but the town or city must be named, and if residence is in a city the street or number must be given.

The following forms are prescribed for applicant's sworn statement and final deposition.

TIMBER AND STONE LANDS.—SWORN STATEMENT.

LAND OFFICE AT ——— ———.
(Date) ——— ———, 18—.

I, ——— ——— of (town or city) ———, county of ———, State (or Territory) of ———, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and in Washington Territory," for the purchase of the — of section ——, township ——, of range ——, in the district of lands subject to sale at ———, ——— do solemnly —— that I am a native (or naturalized) citizen (or have declared my intention to become a citizen*,) of the United States, of the age of ——, and by occupation ———; that I have personally examined said land and from my personal knowledge state that said land is unfit for cultivation, and valuable chiefly for its ——; that it is uninhabited; that it

*In case the party has been naturalized or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

contains no mining or other improvements—; nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit and that I have not, directly or indirectly, made any agreement or contract, or in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the government of the United States may inure in whole or in part to the benefit of any person except myself, and that my post office address is ——— ———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be the person he represents himself to be; and that this affidavit was subscribed and sworn to before me this —— day of ———, 18—.

Register (*or Receiver*).

TIMBER AND STONE LANDS.—TESTIMONY OF ——— ———.

——— ———, being called as a witness in support of his application to purchase the —— of section ——, township ——, of range ——, testified as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. ———.

Ques. 2. What is your occupation?

Ans. ———.

Ques. 3. Are you the identical person who applied to purchase this land on the —— day of ———, 18—, and made the sworn statement assigned by law before the register (or receiver) on that day?

Ans. ———.

Ques. 4. Are you acquainted with the land above described by the personal inspection of each of its smallest legal sub-divisions?

Ans. ———.

Ques. 5. When and in what manner was such inspection made?

Ans. ———.

Ques. 6. Is the land occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to you?

Ans. ———.

Ques. 7. Is the land fit for cultivation; or would it be fit for cultivation if the timber were removed?

Ans. ———.

Ques. 8. What is the situation of this land, and what is the nature of the soil, and what causes render the land unfit for cultivation?

Ans. ———.

Ques. 9. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. ———.

Ques. 10. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. ———.

Ques. 11. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. ———.

Ques. 12. What is the estimated market value of the timber standing upon this land?

Ans. ———.

Ques. 13. Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except yourself?

Ans. ———.

Ques. 14. Do you make this entry in good faith for the appropriation of the land exclusively to your own use and not for the use or benefit of any other person?

Ans. ———.

Ques. 15. Has any other person than yourself, or has any firm, corporation, or association any interest in the entry you are now making or in the land, or in the timber thereon?

Ans. ———.

——— ———.

I hereby certify that the above-named ——— ——— personally appeared before me; that his identity as the person who made sworn statement for the tract of land above named before the register (or receiver) on the —— day of ———, 18—; that I verily believe affiant to be the person he represents himself to be, and that each question and answer in the foregoing testimony was read to him in my presence before he signed his name thereto, and that the same was subscribed and sworn to before me at ——— this —— day of ———, 18—.

——— ———.

——— ———.

TIMBER AND STONE ACT RULING.

Mineral lands excluded from sale. 1 L. D., 600; No. 2034.

Protection of timber; circular of September 19, 1882. 1 L. D., 696; No. 48.

A *prima-facie* valid pre-emption filing, or other claim of record, bars a timber application (unaccompanied by an impeachment of it). 2 L. D., 633; No. 1107; see Nos. 2095, 2097, 2105.

The preliminary affidavit does not bar homestead entry, pending publication, which, however, is subject to the rights of the prior claimant (timber) if established at final proof. 2 L. D., 333, 336; Nos. 2092, 2093.

An application (timber) initiates a valid claim to the tract, in like manner as a pre-emption declaratory filing; the applicant has a preferred right against everybody but the United States and one claiming a prior right to the land. 2 L. D., 334; No. 2093.

An entry (timber) is barred by a prior homestead settlement, irrespective of the character of the land. 2 L, D., 172; No. 308.

Neither a married woman nor a minor may make entry. 2 L. D., 332; Nos. 2090, 2091; but see 132, 2106.

An entry may embrace non-contiguous tracts. 2 L. D., 332; No. 2089; but see No. 132.

The timber applicant must show that the land was uninhabited, unoccupied, and unimproved by others, and that it is unfit for cultivation and chiefly valuable for timber. 2 L. D., 632; No. 1075; see No. 2093.

The existence of a valid settlement or improvement is fatal to the claim, irrespective of the question of character of the land. 2 L. D., 336; No. 2093.

The "adverse claim," or the "valid claim," in Sec. 3 of the act, is one initiated prior to the application; it must be filed during the publication. 2 L. D., 334; No. 2093.

A claim initiated subsequently to the application confers no rights, and may not delay entry on the required proofs; if the United States do not pass title, the subsequent claimant has the next best right to the land. 2 L. D., 334; No. 2093.

A relinquishment of a claim prior to final proof confers no rights on the person obtaining and filing it. 2 L. D., 333; No. 2092.

A party not in interest may appear at any time, alleging illegality in respect of the qualifications or proceedings of the applicant, the *bona fides* of his application, or the character of the land; the only issue is the legality of the application, and the burden of proof is on the timber applicant. 2 L. D., 336; No. 2093.

The proviso to section 3 of the act contemplates a protest, after entry, against the issue of patent, founded on an alleged priority of right. 2 L. D., 336; No. 2093.

The allegation of a person (claiming a settlement right) that the land is "valuable chiefly for agriculture," does not properly constitute a "contest," in which the adverse claims of the parties are to be adjudicated; it is a protest putting that one fact in issue only. 2 L. D., 633; No. 1107.

Where the soil is a black loam and susceptible of ordinary cultivation, except in minor portions where it is rocky or steep, it is not subject to entry. 2 L. D., 633; No. 1107.

The act was intended to allow timber entry of tracts in broken, rugged, or mountainous districts, with soil unfit for ordinary agricultural purposes when cleared of timber. 2 L. D., 632; No. 1075.

The act does not contemplate that the lands must be wholly unfit for cultivation, after removal of the timber, but that they must be unfit for ordinary cultivation and valuable chiefly for timber; cases suggested. 2 L. D., 336; No. 2093.

Final proof and payment not to be made until after the period of publication has expired. 3 L. D., 85; No. 2094.

Entries made for the benefit of others are in evasion of the law, and fraudulent. 3 L. D., 85; No. 2094.

Application apparently not in good faith should be rejected, and those of doubtful character noted for investigation. 3 L. D., 85; No. 2094.

A prior invalid claim will not defeat an application to purchase under this act. 3 L. D., 210; No. 2095; see Nos. 2097, 2105.

Application hereunder for land covered by a pre-emption claim only raises the question of the pre-emptor's good faith and compliance with the law. 3 L. D., 258; No. 2096; see Nos. 2097, 2105.

Invalid pre-emption claim no bar to purchase, but the burden of proof is upon the applicant to show the invalidity of the pre-emption claim. 3 L. D., 435; Nos. 2097, 2105.

Conflicting pre-emptor should be cited by applicant. 3 L. D., 435; Nos. 2097, 2105.

Filing without settlement no bar to purchase. 4 L. D., 70; No. 1177.

Burden of proof as to the character of the land is upon the claimant. 4 L. D., 164, 238; Nos. 2098, 2101.

Application is no appropriation of the land. 4 L. D., 177, 238; Nos. 2099, 2101.

Claims initiated subsequent to the application are subject thereto. 4 L. D., 177, 238, 282; Nos. 2099, 2101, 2102, 2105.

Adverse claims to be settled by hearing. 4 L. D., 177, 282; Nos. 2099, 2102, 2105.

Hearing ordered, after proof was submitted, to determine the right of an adverse claimant who alleged want of notice. 4 L. D., 177; No. 2100.

Affidavit based upon prior claim of record is an "objection" under section 3 of the act. 4 L. D., 178; No. 2100.

Right of protest not confined to adverse claimant. 4 L. D., 238, 282; Nos. 2101, 2102.

Best evidence as to the character of the land from those engaged in tilling the soil in the vicinity. 4 L. D., 238; No. 2101.

Proof not to be submitted until after the expiration of publication period. 4 L. D., 238; No. 2102.

Protest calls in question character of land or good faith of applicant. 4 L. D., 282; No. 2102.

Adverse or valid claim defined. 4 L. D., 282; No. 2102.

Prior occupancy of an alien defeats the purchase of another. 4 L. D., 380; No. 2103.

Inhabited, improved, and occupied land not subject to purchase. 4 L. D., 380; No. 2103.

Right to purchase complete on proof and payment. 5 L. D., 38; No. 2104.

The right of entry being acquired, may be completed by the heirs of the entryman. 5 L. D., 38; No. 2104.

Tender held equivalent to payment. 5 L. D., 38; No 2104.

Limited to certain States and Territories. 5 L. D., 129; No. 114.

Right under, not allowed to defeat or impair prior valid pre-emption claim. 5 L. D., 366; No. 2105.

Applicant under, may attack subsisting pre-emption claim. 5 L. D., 366; No. 2105.

LANDS CONTAINING SALINES OR SALT SPRINGS.

Congress passed an act January 12, 1887 (19 Stat., 221), providing for the sale of *saline lands* in certain States, which are not subject to disposal under general laws. (Morton *vs.* Nebraska, 21 Wallace, 660.)

DETERMINATION OF THE CHARACTER OF THE LANDS.

Should *prima facie* evidence that certain tracts are saline in character be filed with the register and receiver of the proper land district, they will designate a time for a hearing at their office, and give notice to all parties in interest in order that they may have ample opportunity to be present with their witnesses. Such witnesses will be examined in regard to the saline character of the given tracts, and whether the same are claimed by any person; if so, the names of the claimants and the extent of their improvements must be shown.

The witnesses should be thoroughly examined as to the true character of the land in other respects; its agricultural capacities, what kind of crops, if any, have been raised thereon, or can be raised from land of such character; whether it contains any valuable deposit of mineral of any kind or of coal. In short, the testimony should be as complete as possible, and in addition to the points indicated above, everything of importance bearing upon the character of the land should be elicited at the hearing.

The testimony taken at the hearing will be transmitted to the General Land Office by the register and receiver, with their opinion thereon. When the case comes before the General Land Office such a decision will be rendered in regard to the character of the land as the facts may warrant.

DISPOSAL OF SALINES.

Should the tracts be adjudged *salines*, the register and receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated, and to sell said tract or tracts to the highest bidder for cash, at a price not less than $1.25 per acre.

In case said lands should not be sold when so offered, they will be subject to private sale for cash, at a price not less than $1.25 per acre, in the same manner as other public lands.

Should the tract in question be adjudged agricultural or mineral, it will be subject to disposal as such.

LIMITATION OF THE OPERATIONS OF THE ACT.

The provisions of this act do not apply to any lands within the Territories, nor to any within the States of Mississippi, Louisiana, Florida, California, and Nevada, none of which have had a grant of salines by act of Congress.

SALINE LAND RULINGS.

Saline lands not expressly reserved by law or order, but merely by markings on the official plats, are subject to agricultural claim on proof of non-saline character, and the claim relates back to date of settlement or filing. 2 L. D., 847; No. 1816.

The failure of the plats to show the saline character does not subject the land to entry, for the statute reserves all salines, whether marked on the plats or not. 2 L. D., 851; No. 1816.

TOWNSITES ON THE PUBLIC LANDS.

The following instructions approved by Secretary Lamar November 5, 1886, show the law with regard to townsites on the public lands and the manner of proceeding to acquire title thereto, viz:

There are three methods by which title may be acquired to public lands for townsite purposes: One provided for in sections 2380 and 2381; another in sections 2382, 2383, 2384, 2385, and 2386; and the third in sections 2387, 2388, and 2389, United States Revised Statutes.

I.

Section 2380 authorizes the President to reserve public lands for townsite purposes on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population. Section 2381 provides for the survey of such reservation into urban or suburban lots, the appraisement of the same, and the sale thereof at public outcry; the lots remaining unsold are thereafter to be disposed of at public sale or private entry, at not less than the appraised value thereof.

II.

Sections 2382, 2383, 2384, 2385, and 2386, Revised Statutes (act 3d March, 1863, 12 Stat., 754; act 3d March, 1865, 13 Stat., 530), limit the extent of the area of the city or town which may be entered under said acts to 640 acres, to be laid off in lots, which, after filing in this office the statement, transcripts, and testimony required by section 2383, are to be offered at public sale to the highest bidder at a minimum of $10 for each lot.

An actual settler upon any one lot may pre-empt that lot, and any additional lot on which he may have substantial improvements, at said minimum, at any time before the day of sale. Such person must furnish pre-emption proof showing residence and improvement upon the original lot and improvement upon additional lot, after the usual notice of intention by publication.

Lots not disposed of at time of public sale are thereafter subject to private entry at such minimum or at such reasonable price as the Secretary of the Interior may order from time to time, after at least three months' notice, as the municipal property may increase or decrease in value.

The preliminaries required by this method are:

1. Parties having founded or who desire to found a city or town on the public lands, under the provisions of sections 2382, 2383, 2384, 2385, and 2386, must file with the recorder of the county in which the land is situate a plat thereof, describing the exterior boundaries of the land according to the lines of public surveys, where such surveys have been made.

2. Such plat must state the name of the city or town, exhibit the streets, squares, blocks, or lots, and alleys, and specify the size of the same, with measurements and area of each municipal sub-division, the lots in which shall not exceed 4,200 square feet, with a statement of the extent and general character of the improvements.

3. The plat and statement must be verified by oath of the party acting for and in behalf of the occupants and inhabitants of the town or city.

4. Within one month after filing the plat with the recorder of the county a verified copy of said plat and statement must be sent to the General Land Office, accompanied by the testimony of two witnesses that such town or city has been established in good faith.

5. Where the city or town is within the limits of an organized land district a similar map and statement must be filed with the register and receiver. The exterior boundary lines of the town, if upon the land over which Government surveys have not been extended, may, when such surveys are so extended, be adjusted according to those lines, where it can be done without impairing vested rights.

6. In case the parties interested shall fail or refuse, within twelve months after founding a city or town, to file in the General Land Office a transcript map, with the statement and testimony called for by section 2382, the Secretary of the Interior may cause a survey and plat to be made of said city or town, and thereafter the lots will be sold at an increase of 50 per cent. on the minimum price of $10 per lot.

7. When lots vary in size from the limitation fixed in section 2382 (4,200 square feet), and the lots, buildings, and improvements cover an area greater than 640 acres, such variance as to size of lots or excess in area will prove no bar to entry, but the price of the lots may be increased to such reasonable amount as the Secretary may by rule establish.

8. Title to be acquired to town lots embracing mineral entries is subject to recognized possession and necessary use for mining purposes, as provided in section 2386.

(But see Deffeback *vs.* Hawke, 115 U. S., p. 392.)

III.

Lands actually settled upon and occupied as a townsite, and therefore not subject to entry under the agricultural pre-emption laws, may be entered as a townsite in accordance with the provisions of sections 2387, 2388, and 2389, United States Revised Statutes. (Act of March 2, 1867, 14 Stats., 541; act March 3, 1877, 19 Stat., 392).

1. If the town is incorporated, the entry may be made by the corporate authorities thereof through the mayor or other principal officer duly authorized so to do.

2. If the town is not incorporated, the entry may be made by the judge of the county court for the county in which said town is situated.

3. In either case the entry must be made in trust for the use and benefit of the occupants thereof, according to their respective interests.

4. The execution of such trust as to the disposal of lots and the proceeds of sales is to be conducted under regulations prescribed by State or Territorial laws. Acts of trustees not in accordance with such regulations are void.

5. Private individuals or organizations are not authorized to enter townsites under this act, nor can entries under this act be made of prospective townsites. The town must be actually established, and the entry must be for the benefit of the actual inhabitants and occupants thereof.

6. The officer authorized to enter a townsite may make entry at once, or he may initiate an entry by filing a declaratory statement of the purpose of the inhabitants to make a town-site entry of the land described.

7. The entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States, and, if upon surveyed lands, its exterior limits must conform to the legal subdivisions of the public lands.

8. The amount of land that may be entered under this act is proportionate to the number of inhabitants. One hundred and less than two hundred inhabitants may enter not to exceed 320 acres; two hundred and less than one thousand inhabitants may enter not to exceed 640 acres; and where the inhabitants number one thousand and over an amount not to exceed 1,280 acres may

be entered; and for each additional one thousand inhabitants, not to exceed five thousand in all, a further amount of 320 acres may be allowed.

9. When the number of inhabitants of a town is less than one hundred the townsite shall be restricted to the land actually occupied for town purposes, by legal subdivisions.

10. Where an entry is made of less than the maximum quantity of land allowed for townsite purposes, additional entries may be made of contiguous tracts occupied for town purposes, which, when added to the previous entry or entries, will not exceed 2,560 acres; but no additional entry can be allowed which will make the total area exceed the area to which the town may be entitled by virtue of its population at date of additional entry.

11. The land must be paid for at the Government price per acre, and proof must be furnished relating—

1st, To municipal occupation of the land;

2d, Number of inhabitants;

3d, Extent and value of town improvements;

4th, Date when land was first used for townsite purposes;

5th, Official character and authority of officer making entry; and

6th, If an incorporated town, proof of incorporation, which should be a certified copy of the act of incorporation.

12. Thirty days' publication of notice of intention to make proof must be made and proof of publication furnished.

13. Title cannot be acquired under this act to mines of gold, silver, cinnabar, or copper, nor to any valid mining claim or possession. A non-mineral affidavit is required in all States and Territories except Florida, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, and Wisconsin.

14. A greater quantity of land than 2,560 acres is not excluded from pre-emption or homestead entry because of townsite reservations unless the excess in area is actually settled upon, inhabited, improved, and used for business and municipal purposes.

15. If the corporate limits of a town are in excess of the maximum area authorized to be entered as a townsite the proper quantity may be set off, as provided in section 3 of the act of March 3, 1877, and the residue be open to disposal under the homestead and pre-emption laws.

TOWNSITE RULINGS.

Laws only apply to locations on the public land. 1 L. D., 497; No. 2107.

The right of a town to make entry must be computed upon the basis of the number of occupants of the public lands. 1 L. D., 497; No. 2107.

In proceedings to secure, Sec. 2387, R. S., confers authority upon judge of the county court or "or corporate authorities." 1 L. D., 503; No. 2108.

Declaratory statement not required except to save the rights of the town in the event of a public sale. 1 L. D., 503; No. 2108.

Proof required in entry of, and how made. 1 L. D., 503; No. 2108.

Procedure when the land applied for is alleged to be mineral. 1 L. D., 503; No. 2108. (See Commissioner's letter to register and receiver at Cheyenne, W. T., July 30, 1887, as to the requirement of publication in making townsite proof.)

The term "actual settler" in Sec. 2382, R. S., means actual resident; when one or two lots are entered, the entryman must actually reside on one lot. 2 L. D., 628; No. 2111.

A timber-culture entry may not be made within the incorporated limits of a city or town. 2 L. D., 634; No. 1833.

If land is mineral it is subject to location only under the mining law, without reference to its relative value for townsite purposes; this ruling was changed by circular September 22, 1882. 2 L. D., 717, 718; No. 723.

When the site for which application was made by the county judge was subsequently included within another county, and the entry made by the judge of

the latter county, it was allowed to stand on the agreement of the parties. 3 L. D., 13; No. 2112.

Private cash entry of offered land, not within corporate limits, may be made for townsite without reference to the statutory limitation with respect to population. 3 L. D., 30; No. 2113.

Actual settlement for, is notice to pre-emption and homestead settlers. 3 L. D., 30; No. 2113.

The cancellation of homestead entries on offered land leaves it withdrawn from private entry and subject to disposal for townsite as unoffered land. 3 L. D., 30; No. 2113.

Claims for, are in the nature of pre-emptions. 3 L. D., 71; No. 146.

The incorporation of a town with limits in excess of 2,560 acres will not bar pre-emption entry within said limits, on land not actually settled upon and used for business and municipal purposes. 3 L. D., 77; No. 2115.

Abandoned townsite settlement no bar to homestead entry. 3 L. D., 282; No. 414.

Four non-residents cannot select and reserve an entire section. 3 L. D., 356; No. 2114.

In the absence of incorporation the selection must be made by actual townsite settlers to exclude pre-emption and homestead settlement. 3 L. D., 433, 358; Nos. 2118, 2114.

Land reserved from pre-emption settlement is equally reserved from townsite settlement. 3 L. D., 360; No. 2114.

As between a townsite claim and a pre-emptor, their rights begin with their initiatory acts. 3 L. D., 358; No. 2114.

Occupation of land within an Indian reservation for townsite purposes confers no right. 3 L. D., 356; No. 2114.

Settlement for, must rest on the principles applicable to other claims so begun. 3 L. D., 431; No. 2118.

Selection of lands for, must be with authority. 3 L. D., 432; No. 2118.

Land entered under section 2387 must be paid for as though purchased by a pre-emptor. 4 L. D., 54; No. 2119.

Conflict with mining claim left with jury of neighborhood. 4 L. D., 212; No. 2120.

On mineral land subject to the rights of claimant therefor. 4 L. D., 212; No. 2120; see Nos. 2116, 1526, 842, and decisions of United States Supreme Court—Deffeback *vs.* Hawke, 115 U. S., p. 392.

What constitutes actual settler under section 2382. 4 L. D., 337; No. 2117.

Filing not necessary to entry under the act of July 1, 1864. 4 L. D., 337; No. 2117.

Right of purchase in "actual settler" requires a showing of residence. 4 L. D., 337; No. 2117.

Additional entry under section 2382, Revised Statutes, allowed on residence shown upon another lot. 4 L. D., 337; No. 2117.

Laws only refer to location of towns on public land. 4 L. D., 586; No. 2121.

Plat filed by railroad company on land withdrawn under its grant will not strengthen the claim of settlers under the public land laws. 4 L. D., 584; No. 2121.

Claim concluded by homesteader's final proof after due notice. 4 L. D., 584; No. 2121.

The actual settler upon a lot has the preferred right of purchase. 5 L. D., 56; No. 2122.

An actual settler upon one lot may purchase an additional lot upon which he has improvements. 5 L. D., 56; No. 2122.

Informal settlement subsequently abandoned does not reserve land from homestead entry. 5 L. D., 180; No. 568.

Rights of, not reserved in mineral patent. 5 L. D., 193, 256; Nos. 1526, 842.

Settlers in conflict with mining claim. 5 L. D., 131; No. 789.

Circular of July 9, 1886 (approved November 5, 1886), as to manner of acquiring title to. 5 L. D., 265; No. 113.

Location of, under State laws, on land temporarily appropriated, is a bar to subsequent homestead entry. 5 L. D., 475; No. 2123.

MINERAL LANDS.

Under section 2318, Revised Statutes, lands valuable for minerals are reserved from sale except as otherwise expressly directed by law. Section 2319 provides for their location by citizens of the United States or those who have declared their intention to become such. The law covers claims for lands bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, and for the above and other valuable and economic minerals, found in lodes of quartz or other rock in place, titles can be obtained from the United States under the existing laws at $5 per acre.

Claims cannot exceed 1,500 feet in length along the vein or lode, and 300 feet on each side of the middle of the vein at the surface, the end lines of the claims to be parallel.

No vein or lode claim located after May 10, 1872, can exceed a parallelogram 1,500 feet in length by 600 in width. The size below this maximum may be regulated by State or Territorial laws or the rules of the several mining districts.

No local regulations or State or Territorial law can limit a vein or lode claim located since May, 10, 1872, to less than 1,500 feet along the vein or course thereof, whether the location is made by one or more persons, nor can surface rights be limited to less than 50 feet in width, unless adverse rights existing on the 10th day of May, 1872, render such lateral limitations necessary. This saving clause is essential from the fact that in many of the mining States and Territories, the local rules did not permit the location of surface ground. There are now three classes of location recognized—those made prior to July 26, 1866; those between that date and May 10, 1872; and those made since May 10, 1872. The variety in size and quantity of locations cannot here be detailed at length. Under the United States mining law, the maximum of a quartz lode or vein claim is, 1,500 by 600 feet, and the minimum 1,500 by 50 feet, being about 20.66 acres maximum, or 1.72 acres minimum. Cost of surveys, etc., are paid by the claimants, and the land is paid for at $5 for each acre or fraction of an acre.

Locations are made under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable, and not inconsistent with the laws of the United States. The United States has the authority and can provide a general and uniform system of location, areas, etc., entirely superseding the various State, Territorial, and district laws. Some of the mining States and Territories have adopted the United States mining law May 10, 1872, as to area; others protect other forms and areas of location by law.

In the States of Michigan, Wisconsin, Minnesota, Missouri, Kansas, and Alabama, any mineral lands therein are disposed of in like manner with agricultural lands under various acts of Congress.

MANNER OF PROCEEDING TO OBTAIN GOVERNMENT TITLE TO VEIN OR LODE CLAIMS.

1. By section 2325 authority is given for granting titles for mines by patent from the Government to any person, association, or corporation having the necessary qualifications as to citizenship and holding the right of possession to a claim in compliance with law.

2 The claimant is required in the first place to have a correct survey of his claim made under authority of the surveyor-general of the State or Territory in which the claim lies; such survey to show with accuracy the exterior surface boundaries of the claim, which boundaries are required to be distinctly marked by monuments on the ground. Four plats and one copy of the original field-notes in each case will be prepared by the surveyor-general; one plat and the original field-notes to be retained in the office of the surveyor-general, one copy of the plat to be given the claimant for posting upon the claim, one plat and a copy of the field-notes to be given the claimant for filing with the

proper register, to be finally transmitted by that officer, with other papers in the case, to the General Land Office, and one plat to be sent by the surveyor-general to the register of the proper land district, to be retained on his files for future reference.

3. The claimant is then required to post a copy of the plat of such survey in a conspicuous place upon the claim, together with notice of his intention to apply for a patent therefor, which notice will give the date of posting, the name of the claimant, the name of the claim, mine, or lode; the mining district or county; whether the location is of record, and, if so, where the record may be found; the number of feet claimed along the vein and the presumed direction thereof; the number of feet claimed on the lode in each direction from the point of discovery, or other well defined place on the claim; the name or names of adjoining claimants on the same or other lodes; or, if none adjoin, the names of the nearest claims, etc.

4. After posting the said plat and notice upon the premises, the claimant will file with the proper register and receiver a copy of such plat, and the field notes of survey of the claim, accompanied by the affidavit of at least two credible witnesses, that such plat and notice are posted conspicuously upon the claim, giving the date and place of such posting; a copy of the *notice* so posted to be attached to, and form a part of, said affidavit.

5. Attached to the field-notes so filed must be the sworn statement of the claimant that he has the possessory right to the premises therein described, in virtue of a compliance by himself (and by his grantors, if he claims by purchase) with the mining rules, regulations, and customs of the mining district, State, or Territory in which the claim lies, and with the mining laws of Congress; such sworn statement to narrate briefly, but as clearly as possible, the facts constituting such compliance, the origin of his possession, and the basis of his claim to a patent.

6. This affidavit should be supported by appropriate evidence from the mining recorder's office as to his possessory right, as follows, viz: Where he claims to be a locator, a full, true and correct copy of such location should be furnished, as the same appears upon the mining records, such copy to be attested by the seal of the recorder, or if he has no seal, then he should make oath to the same being correct, as shown by his records. Where the applicant claims as a locator in company with others who have since conveyed their interests in the lode to him, a copy of the original record of location should be filed, together with an abstract of title from the proper recorder, under seal or oath as aforesaid, tracing the co-locator's possessory rights in the claim to such applicant for patent. Where the applicant claims only as a purchaser for valuable consideration, a copy of the location record must be filed under seal or upon oath as aforesaid, with an abstract of title certified as above by the proper recorder, tracing the right of possession by a continuous chain of conveyances from the original locators to the applicant, also certifying that no conveyances affecting the title to the claim in question appear of record in his office other than those set forth in the accompanying abstract.

7. In the event of the mining records in any case having been destroyed by fire or otherwise lost affidavit of the fact should be made, and secondary evidence of possessory title will be received, which may consist of the affidavit of the claimant, supported by those of any other parties cognizant of the facts relative to his location, occupancy, possession, improvements, etc.; and in such case of lost records any deeds, certificates of location or purchase, or other evidence which may be in the claimant's possession and tend to establish his claim, should be filed.

8. Upon the receipt of these papers the register will, at the expense of the claimant (who must furnish the agreement of the publisher to hold applicant for patent alone responsible for charges of publication), publish a notice of such application for the period of sixty days, in a newspaper published nearest to the claim, and will post a copy of such notice in his office for the same period. In all cases sixty days must intervene between the first and the last insertion of the notice in such newspaper. When the notice is published in a

weekly newspaper ten consecutive insertions are necessary; when in a *daily* newspaper the notice must appear in each issue for the required period.

9. The notices so published and posted must be as full and complete as possible, and embrace all the *data* given in the notice posted upon the claim.

10. Too much care can not be exercised in the preparation of these notices, inasmuch as upon their accuracy and completeness will depend, in a great measure, the regularity and validity of the whole proceeding.

11. The claimant, either at the time of filing these papers with the register, or at any time during the sixty days' publication, is required to file a certificate of the surveyor-general that not less than five hundred dollars' worth of labor has been expended or improvements made upon the claim by the applicant or his grantors; that the plat filed by the claimant is correct; that the field notes of the survey, as filed, furnish such an accurate description of the claim as will, if incorporated into a patent, serve to fully identify the premises, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the *locus* thereof.

12. It will be the more convenient way to have this certificate indorsed by the surveyor-general, both upon the plat and field-notes of survey filed by the claimant as aforesaid.

13. After the sixty days' period of newspaper publication has expired the claimant will file his affidavit, showing that the plat and notice aforesaid remained conspicuously posted upon the claim sought to be patented during said sixty days' publication, giving the dates.

14. Upon the filing of this affidavit the register will, if no adverse claim was filed in his office during the period of publication, permit the claimant to pay for the land according to the area given in the plat and field-notes of survey aforesaid, at the rate of five dollars for each acre and five dollars for each fractional part of an acre, the receiver issuing the usual duplicate receipt therefor. The claimant will also make a sworn statement of all charges and fees paid by him for publication and surveys, together with all fees and money paid the register and receiver of the land office; after which the whole matter will be forwarded to the Commissioner of the General Land Office and a patent issued thereon if found regular.

ADVERSE CLAIMS.

15. Section 2326 provides for adverse claims, fixes the time within which they shall be filed to have legal effect, and prescribes the manner of their adjustment.

16. Said section requires that the adverse claim shall be filed during the period of publication of notice; that it must be on the oath of the adverse claimant, and that it must show the "*nature*," the "*boundaries*," and the "*extent*" of the adverse claim.

17. In order that this section of law may be properly carried into effect, the following is communicated for the information of all concerned:

18. An adverse mining claim must be filed with the register of the same land office with whom the application for patent was filed, or in his absence with the receiver, and within the sixty days' period of newspaper publication of notice.

19. The adverse notice must be duly sworn to by the person or persons making the same before an officer authorized to administer oaths within the land district, or before the register or receiver. It will fully set forth the nature and extent of the interference or conflict; whether the adverse party claims as a purchaser for valuable consideration or as a locator; if the former, a certified copy of the original location, the original conveyance, a duly certified copy thereof, or an abstract of title from the office of the proper recorder should be furnished, or if the transaction was a mere verbal one he will narrate the circumstances attending the purchase, the date thereof, and the amount paid, which facts should be supported by the affidavit of one or more witnesses, if any were present at the time, and if he claims as a locator he must file a duly certified copy of the location from the office of the proper recorder.

20. In order that the "*boundaries*" and extent" of the claim may be shown it will be incumbent upon the adverse claimant to file a plat showing his entire claim, its relative situation or position with the one against which he claims and the extent of the conflict. This plat must be made from an actual survey by a United States deputy surveyor, who will officially certify thereon to its correctness, and in addition there must be attached to such plat of survey a certificate or sworn statement by the surveyor as to the approximate value of the labor performed or improvements made upon the claim by the adverse party or his predecessors in interest, and the plat must indicate the position of any shafts, tunnels, or other improvements, if any such exist, upon the claim of the party opposing the application, and by which party said improvements were made.

21. Upon the foregoing being filed within the sixty days as aforesaid, the register, or in his absence the receiver, will give notice in writing to *both parties* to the contest that such adverse claim has been filed, informing them that the party who filed the adverse claim will be required within thirty days from the date of such filing to commence proceedings in a court of competent jurisdiction to determine the question of right of possession, and to prosecute the same with reasonable diligence to final judgment, and that should such adverse claimant fail to do so his adverse claim will be considered waived, and the application for patent be allowed to proceed upon its merits.

22. When an adverse claim is filed as aforesaid the register or receiver will indorse upon the same the precise date of filing, and preserve a record of the date of notifications issued thereon, and thereafter all proceedings on the application for patent will be suspended, with the exception of the completion of the publication and posting of notices and plat, and the filing of the necessary proof thereof until the controversy shall have been adjudicated in court or the adverse claim waived or withdrawn.

23. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights.

PLACER CLAIMS—PATENTS THEREFOR.

The proceedings to obtain patent for placer claims, including all forms of deposit, are essentially similar to the proceedings prescribed for obtaining patents for lode or vein claims. But placer claims, when on surveyed lands and conforming to legal sub-divisions, require no further plat or survey, and 40-acre sub-divisions may be cut into 10-acre lots and sold as placer claims. Where placer claims cannot be conformed to legal sub-divisions, survey and plat must be made as on unsurveyed lands; but where such claims are located previous to the public surveys, and do not conform to legal sub-divisions, survey, plat, and

entry thereof may be made according to the boundaries thereof, provided the location is in all respects legal.

These lands are sold at $2.50 for each acre or fraction of an acre.

No location of a placer claim made after July 9, 1870, can exceed 160 acres for any one person or association of persons.

All placer mining claims located after May 10, 1872, must conform as nearly as practicable with the United States system of public surveys and the sub-divisions of such surveys, and no such locations can include more than 20 acres for each individual claimant. The act of July 9, 1870, absolutely required locations made after its passage to conform to legal sub-divisions, but the act of May 10, 1872, modified this requirement by making such conformation necessary only where practicable.

The foregoing provisions of law are construed to mean that after the 9th day of July, 1870, no location of a placer claim can be made to exceed 160 acres, whatever may be the number of locators associated together, or whatever the local regulations of the district may allow; and that from and after May 10, 1872, no location made by an individual can exceed 20 acres, and no location made by an association can exceed 20 acres for each person, or 160 acres in all. In order to locate 160 acres eight *bona fide* locators are required. No local laws or mining regulations can restrict a placer location to less than 20 acres, although the locator is not compelled to take so much.

Mill sites must be located on non-mineral lands not contiguous to the vein or lode, and not exceed five acres, and may be included in the patent for a mine at $5 per acre. (See Sec. 2337, R. S.)

Tunnel rights, in tunnels run for the development of a ven or lode or for the discovery of mines, are provided. Proprietors of a mining tunnel run in good faith are entitled to the possessory right of all blind lodes cut, discovered, or intersected by such tunnel, which were not previously known to exist, within 3,000 feet of the face or point of commencement of such tunnel, to the same extent as if such lodes had been discovered on the surface, and other parties are prohibited after the commencement of a tunnel from prospecting for and making location on *the line thereof* and within said distance of 3,000 feet, unless such lodes appear upon the surface or were previously known to exist. (See Sec. 2323, R. S.)

MINERAL LAND RULINGS.

Rule laid down as to what constitutes. 1 L. D., 560; No. 687.

Regulations governing entry of lands containing borax and alkaline earths, sulphur, alum, and asphalt. 1 L. D., 561; No. 713.

Frie-clay or kaoline subject to mineral entry. 1 L. D., 565; No. 719.

Gypsum and limestone held to be minerals. 1 L. D., 560; No. 687.

Lands containing mineral springs, not of a saline character, are subject to sale under the general laws. 1 L. D., 562; No. 707.

Coal and iron lands in Alabama; circular of April 9, 1883. 1 L. D., 655; No. 64.

Sale of coal land; circular of July 31, 1882. 1 L. D., 687; No. 47.

In Alabama disposed of as agricultural. 1 L. D., 96; No. 285.

In Missouri disposed of as agricultural. 1 L. D., 599; No. 2023.

May be included within military reservation, and while thus reserved is not subject to other appropriation. 1 L. D., 552; No. 681.

Townsite may be located within. 1 L. D., 556; No. 701.

MINERALS.

Borax, soda, alum, oil, etc., are minerals within the meaning of the mining laws. 2 L. D., 709; No. 732.

Coal is not within the meaning of the act of June 3, 1878. 2 L. D., 827; No. 2057.

The act of March 3, 1883, subjects to public sale lands, theretofore reported as containing coal or iron, which appear on the records to be vacant (Alabama). 2 L. D., 35; No. 295.

One who settled on mineral land in 1871 acquired no right to it by virtue of section 3, act of May 14, 1880, and is not protected by the act of March 3, 1883 (Alabama). 2 L. D., 35; No. 295.

A tract reported in 1879 as containing valuable coal, but whereon a homestead entry was allowed in 1883, which was afterwards relinquished and canceled, must be offered at public sale (Alabama). 2 L. D., 36; No. 295.

Sec. 2341, R. S., was intended to relieve persons who had settled on lands theretofore designated as mineral, when they were afterwards found to be agricultural; Sec. 2342, R. S., gave the right of settlement on said lands when duly set apart as agricultural. 2 L. D., 716; No. 723.

By their designation as "agricultural" in the official plats, lands in a mineral belt were set apart as *prima facie* "clearly agricultural," under section 11, act of July 26, 1866 (Sec. 2342, R. S.) 2 L. D., 713, 850; Nos. 722, 1816.

When lands have been returned as agricultural the burden of proof is on one denying their *prima facie* character. 2 L. D., 714, 717, 721; Nos. 722, 723, 729.

Whenever mineral and agricultural or townsite claims conflict, the comparative value of the land for mining or agriculture is in question and must be considered. 2 L. D., 717, 720, 721; Nos. 723, 724, 729.

One denying the *prima facie* agricultural character of a tract covered by a claim (homestead) must show, not that it is of little value for agriculture, not that adjoining or neighboring lands are mineral, and not, theoretically, that the tract may possibly develop minerals in the future, but that, as a present fact, proved by the actual production of minerals, it is mineral land. 2 L. D., 721; No. 729.

Where the testimony to agricultural character was speculative, and the land never paid the expenses of cultivating it, but the minerals obtained during several years paid for the plant and for mining expenses, it is subject to mineral entry. 2 L. D., 719; No. 723.

An entry (homestead) of record bars the filing of a placer application for the tract until after a determination of the character of the land. 2 L. D., 712; No. 722.

Where a placer application has been filed on a homestead entry of land both claims may be suspended until after a hearing upon the character of the land. 2 L. D., 712; No. 722.

Land chiefly valuable for deposits of building stone, containing no lodes or veins of quartz or other rock in place, may be entered as a placer claim. 3 L. D., 116; No. 752.

The general instructions, revoking mineral withdrawals, and placing the burded of proof upon mineral claimants, were applicable to Alabama lands. 3 L. D., 169; No. 741.

The act of March 3, 1883 (Alabama), only operated on lands withdrawn and designated as mineral. 3 L. D., 173; No. 741.

Lands covered by entries and valid applications prior to the act of March 3, 1883 (Alabama), were not affected by said act. 3 L. D., 169; No. 741.

The act of March 3, 1883 (Alabama), relates only to the future disposition of lands. 3L. D., 172; No. 741.

The act of March 3, 1883 (Alabama), was not intended to change previous constructions of the law. 3 L. D., 177; No. 741.

The act of March 3, 1883 (Alabama), conferred no rights save in cases where entries had been made prior to its passage. 3 L. D., 177; No. 749.

Does not pass under school grant. 3 L. D., 233; No. 438.

All evidence as to character of land should receive due consideration. 3 L. D., 234; No. 755,

The Government interested in determining the character of land. 3 L. D., 234; No. 755.

The land being returned as agricultural the burden of proof is with the mineral claimant. 3 L. D., 234; No. 755.

So known would not pass under the townsite patent. 4 L. D., 556; No. 837.

Must be shown such as the present fact. 4 L. D., 478; No. 782.

So held under the evidence, 4 L. D., 104; No. 767.

Oil land held as mineral. 4 L. D., 60, 284; Nos. 764, 775.

Proof that neighboring land contains oil not sufficient to defeat agricultural entry of land returned as subject thereto. 4 L. D., 60; No. 764.

Exemption of, from school reservation. 4 L. D., 75; No. 765.

Locations prior to survey not in conflict with reserved school sections. 4 L. D., 96; No. 766.

Vested right in, not affected by the act of March 3, 1883 (Alabama). 4 L. D., 476; No. 781.

In Alaska, regulations concerning. 4 L. D., 128; No. 98.

Order of March 24, 1885, suspending action on mineral applications for school lands revoked. 4 L. D., 531; No. 536.

Determination as to character of, final. 5 L. D., 131; No. 789.

Fee of, indivisible. 5 L. D., 256; No. 842.

Land containing a mineral spring is not. 5 L. D., 190; No. 789a.

Not known as such, but sold as agricultural, title passes. 5 L. D.. 193; No. 1526.

Known to be such excepted from railroad grant. 5 L. D., 193; No. 1526.

Found to be such after patent under railroad grant, does not affect the title. 5 L. D., 193; No. 1526.

Settlers upon, without protection. 5 L. D., 131; No. 789.

MINING CLAIM RULINGS.

The right conferred by a valid mining location amounts to a property, capable of being employed or transferred, entirely separate and distinct from the fee of the land. 1 L. D., 615; No. 2028.

Mining laws recognized prior local laws, rules, and regulations. 1 L. D., 584; No. 690.

Assignments of interests in mining possessions are valid, even by parol transfer. 1 L. D., 593; No. 695.

Mining laws recognized jurisdiction assumed by the courts. 1 L. D., 584; No. 690.

Requisite compliance with law presumed after entry. 1 L. D., 548; No. 702.

Includes a tunnel location. 1 L. D., 584; No. 690.

Cancellation of mineral entry does not affect possessory rights. 1 L. D., 526; No. 1590.

Miners' rights not divested by subsequent appropriation of the land for military reservation. 1 L. D., 552; No. 689.

The Land Department will inquire into questions affecting compliance with the law. 1 L. D., 584; No. 690.

Patent will not issue for location within prior patented lines. 1 L. D., 593; No. 695.

Mineral entry not invalid because at the time made the land was covered by a homestead entry. 1 L. D., 565; No. 719.

Sections 2324 and 2325 should be construed together. 1 L. D., 544; No. 703.

In application for survey the location must be properly marked and recorded. 1 L. D., 581; No. 691.

Application for lode patent within limits of patented placer, alleging that the existence of the lode was known at date of placer application, should be received, subject to adverse proceedings of placer claimant. 1 L. D., 564; No 717.

Application in conflict with prior pending claim not received. 1 L. D., 542; No. 686.

Application allowed by the receiver instead of the register not disturbed. 1 L. D., 545; No. 704.

Applications should be received in the order of time as presented. 1 L. D., 562; No. 698.

Adverse proceedings; circular of May 9, 1882. 1 L. D., 685; No. 45.

Tunnel location should be protected by adverse suit as other mining claims. 1 L. D., 584; No. 690.

Extent and nature of adverse claim may be shown by means best practicable if survey cannot be made. 1 L. D., 582; No. 693.

Adverse claimants held to reasonable diligence. 1 L. D., 582; No. 693.

Rights as between adverse claimants must be determined by the courts. 1 L. D., 584; No. 690.

Courts must determine legal rights between townsite and mineral claimants. 1 L. D., 556; No. 701; but see No. 842.

Preliminary proofs accepted, though patent must issue for claim as diminished by adverse placer. 1 L. D., 551; No. 718.

Alleged delinquent co-tenants must protect their rights as adverse claimants. 1 L. D., 544; No. 703.

Entry should be canceled where the certificate showing non-existence of suit was recalled. 1 L. D., 539; No. 705.

Stay of proceedings warranted on allegation of adverse claim shown on plat filed. 1 L. D., 538; No. 709.

In the absence of adverse claim it is assumed that the applicant is entitled to patent, and no agreement of parties can affect this statutory provision. 1 L. D., 591; No. 694.

Failure of prior locator to file adverse claim is a waiver of his right. 1 L. D., 591; No. 694.

Failure of adverse claimant to institute suit a waiver of his claim. 1 L. D., 584; No. 690.

Adverse claim, though informal, held sufficient where suit had been duly brought thereon. 1 L. D., 603; No. 708.

Separate patents may issue for such portions of claims as adverse parties may rightfully possess. 1 L. D., 593; No. 695.

Time for filing adverse claim not computed to include period during which the local office was closed. 1 L. D., 572; No. 697.

Lode within placer claim, not known at application, passes with patent of placer. 1 L. D., 549; No. 714.

Lode claim within placer restricted to 25 feet on each side of the lode on failure to properly protect the full extent of the claim by adverse proceedings. 1 L. D., 551; No. 718.

Waiver of a portion of lode claim, including original discovery shaft, does not affect rights of possession and development as to the remainder. 1 L. D., 593; No. 695.

Mill-sites provided for and recognized by section 2337, R. S. 1 L. D., 556; No. 701.

Mill-site location made the same as mineral claim. 1 L. D., 556; No. 701.

Under the first class of mill-sites there must be a lode or vein shown in connection therewith. 1 L. D., 556; No. 701.

Mill-site claim must be protected by adverse proceedings in case of conflicting application. 1 L. D., 555; No. 699.

All known lodes at date of placer application are excepted from patent issued thereon, together with 25 feet on each side of said lodes. 1 L. D., 577; No. 712.

Area of placer; expenditure; circular of December 9, 1882. 1 L. D., 694; No. 53.

Patent for placer; circular of September 22, 1882. 1 L. D., 685; No. 49.

Fire-clay, or kaolin, properly the subject of placer location. 1 L. D., 565; No. 719.

Each of the three concurrent details in publication of notice must be equally observed. 1 L. D., 572; No. 697.

Notice of application must be posted in local office during the whole period of publication. 1 L. D., 572; No. 697.

Posting in open shaft-hose held sufficient. 1 L. D., 548; No. 702.

Publication of notice in paper designated by the register sufficient. 1 L. D., 570; No. 696.

Insufficiency of publication, not the fault of applicant, waived in the absence of adverse rights. 1 L. D., 575; No. 711.

Exclusion of conflicting areas must appear in published posted notices. 1 L. D., 542; No. 686.

Protestant has no right of appeal. 1 L. D., 584; No. 690.

Protestant cannot rely on technicalities. 1 L. D., 577; No. 712.

Survey of; circular of November 16, 1882. 1 L. D., 693; No. 52.

Proceedings based upon a false survey and publication are invalid. 1 L. D., 593; No. 695.

The possessory title to a lode claim, held and worked for a period equal to the time prescribed in the local statute of limitations for mining claims, may, in absence of an adverse claim, be established in the manner now authorized in placer claims. 2 L. D., 726; No. 66.

Section, 2324 Revised Statutes, has reference solely to title by right of possession, and does not conflict with titles acquired by purchase. 2 L. D., 771; No. 700.

A discovery within the limits of a prior existing and valid location, will not support a location since May 10, 1872; where there has been no application for patent by the prior locators, inquiry into the question need not be made. 2 L. D., 744; No. 744.

Where the discovery on which location was based was made within a prior location a subsequent discovery within the ground claimed prior to application or adverse right is sufficient, and obviates the necessity of re-marking the boundaries. 2 L. D., 752; No. 745.

There must have been a discovery of mineral within the surface boundary of the claim prior to the application; if made within the claim's limits before an adverse right attaches, though not in the discovery shaft, it is sufficient. 2 L. D., 741, 749; Nos. 737, 744.

Where it is necessary to support an entry made, and there is no adverse claim or showing of fraud, if the evidence is conflicting the discovery of mineral in the discovery shaft will be presumed. 2 L. D., 742; No. 737.

Whether the legislature of Colorado may, in view of the national statute, lawfully attach to the mining laws a condition requiring a discovery in the discovery shaft, *quære*. 2 L. D., 742; No. 737.

A location with discovery shaft on vacant ground may not include said ground, and non-contiguous ground on the same vein or lode, the two parts of the junior location being separated by an intervening claim (patented). 2 L. D., 735, 736; Nos. 716, 731.

Location and working for mining purposes segregate the land, and prevent utilization of a discovery within its limits. 2 L. D., 744; No. 744.

Surface ground is an incident of the lode, and a location of surface ground which does not include any part of the lode claimed to have been discovered is invalid. 2 L. D., 744; No. 744.

Whether a placer "location" by the local officers is within rule prohibiting "entries" by them, *quære*. 2 L. D., 754; No. 747.

A location on surveyed lands, since the act of 1872, must conform to the public surveys only so far as is reasonably practicable; it may be for 12,000 feet of the bed of a non-navigable stream in a canon. 2 L. D., 764; No. 736.

No proof of abandonment is required of relocators alleging it in their application. 2 L. D., 698; No. 734.

The relocation of an erroneous location, allowed by the laws of Colorado, must be substantially the same as the original location; additional ground may not be included, if existing rights (by color of law) are interfered with. 2 L. D., 740; No. 737.

In enlarging a location (placer), the relocation is restricted to 20 acres additional. 2 L. D., 763; No. 726.

No deposit is required to accompany an application for survey in the field, the applicant being free to contract as he pleases; for planting or office work a deposit must be made. 2 L. D., 773; No. 728.

Sec. 2334, R. S., was intended to protect applicants from unjust charges for survey and publication. 2 L. D., 773; No. 728.

An error in description (last course and distance, to inclose the tract, made to run east instead of west), which does not mislead the adverse claimant or defeat any right, will not invalidate the publication. 2 L. D., 707; No. 732.

The selection of a newspaper rests in the sound discretion of the register; other things being equal, the convenience of the applicant should be consulted. 2 L. D., 758; No. 738.

Where the plat and notice were posted in the limits of the claim as located, although on ground excluded (for conflict) from the application, it suffices. 2 L. D., 756; No. 706.

A mineral entry of record, dormant for seven years, held to have barred an application. 2 L. D., 769; No. 700.

Application embracing more than one lode location will not be received; circular June 8, 1883. 2 L. D., 725; No. 66; see No. 72.

Consolidated application filed prior to receipt at local office of circular of June 8, 1883, may be received on proof of improvements of the value of $500 on each lode claim. 2 L. D., 726, 772; Nos. 72, 700.

Application embracing a location (placer), assigned to applicant, and a relocation of said location enlarging it must show $500 expended on each location; the enlargement must not exceed twenty acres. 2 L. D., 763; No. 726.

Rule that application by an association of persons may not be for more than one location or for more than 160 acres, does not extend to lands containing deposits of borax, soda, alum, etc., in California, Nevada, Arizona, Utah, and Wyoming. 2 L. D., 708; No. 732.

Application for water-right, under guise of a placer claim, will be rejected. 2 L. D., 774; No. 733.

An adverse claim must be upon oath of the person or persons making it; may not be sworn to by an attorney. 2 L. D., 707; No. 730.

The adverse claim must be filed within the sixty days of publication; the rule allowing it to be filed on the day of the tenth publication, where the newspaper is issued weekly, is rescinded. 2 L. D., 709; No. 735.

The adverse claimant may not, before suit commenced, file an application for the ground adversely claimed. 2 L. D., 723; No. 743.

Failure to adverse within required time (because of alleged failure of adverse claimants to obtain mineral in their claim) is an admission that they had no right to the property; they cannot be heard subsequently to claim either legal or equitable title to it. 2 L. D., 738; No. 737.

Suit must be commenced within thirty days after filing; when not so commenced (by reason of absence of the clerk of the court and his deputy) it must be held that no adverse claim exists. 2 L. D., 707, 744; Nos. 732, 744.

Proof that suit was not duly commenced must be by certificates of clerks of proper State and United States courts. 2 L. D., 726; No. 66.

The applicant, adversed, may litigate the case, or relinquish the ground in conflict and take patent for the remainder, or dismiss his application for patent and rely on his possessory title. 2 L. D., 744; No. 744.

An adverse claimant may not, after suit commenced, file an application for the ground adversely claimed. 2 L. D., 704; No. 720.

All questions concerning the proper location, and the maintenance of a prior location by the performance of labor, must be left to the courts. 2 L. D., 749; No. 744.

The question of abandonment of a mine, alleged by the relocators, is a proper one for the courts, if an adverse claim is filed. 2 L. D., 699; No. 734.

Where an adverse claim is presented in proper form, and the courts have properly acquired jurisdiction, and there has been no settlement or decision of the suit or waiver of the claim, the General Land Office will not consider a question which goes to the merits of the case (motion to dismiss because, whilst the claim denies the ownership of the applicants, it admits a location subsequent to the application for patent). 2 L. D., 699; No. 710.

The subject matter of the controversy having been transferred to a court of competent jurisdiction, all further proceedings in the land office affecting the

property in dispute are stayed, with the exception of the publication of notice and making and filing proof thereof. 2 L. D., 705; No. 720.

Where suit was duly commenced, though a subsequent decision dismissing the adverse claim for invalidity (sworn to by an attorney) has become final (no appeal), no action looking to the issue of patent will be taken while the suit is pending. 2 L. D., 706; No. 730.

Where suit on the adverse claim has been duly instituted, but a subsequent application by the adverse claimant embracing the same ground has been received and duly adversed by the original applicant and suit thereon commenced, the Land Department has jurisdiction to dismiss from the record the second application. 2 L. D., 704; No. 720.

Where suit on the adverse claim has been duly instituted, but a subsequent application by the adverse claimant embracing the same ground has been received and duly adversed by the original applicant, and suit thereon commenced, the Land Department will not dismiss the second application from the record while both or one of the suits is pending. 2 L. D., 712; No. 735.

After A had filed an application, B filed an application embracing part of the ground, and also duly adversed A and commenced suit; before judgment, which was in his favor, B made mineral entry; in view of the judgment and of A's acquiescence therein, the question is between B and the Government, and the irregularity in the application and entry will be waived. 2 L. D., 722; No. 743.

The adverse claimant, after judgment in his favor, must accompany his application with the official plat and field-notes, and with a certificate to the requisite amount of labor and improvements. 2 L. D., 706; No. 721.

After judgment, the successful claimant must file a certified copy thereof, with the other evidence required by Sec. 2326, R. S.; if suit be dismissed, the clerk's certificate, or a certified copy of the order of dismissal, must be filed; in no case will a relinquishment or other proof filed in the local office be accepted in lieu of the foregoing. 2 L. D., 726; No. 66.

The applicant is entitled to enter for all that part of the ground not affected by the judgment; where the judgment is for but part of the ground adversely claimed, entry may not be made until it becomes final; judgment for all the ground adversely claimed may be treated as final judgment. 2 L. D., 750; No. 744.

An entry embracing more than one lode location will not be allowed after receipt of these instructions (approved July 6, 1883) at the local office. 2 L. D., 725, 726, 772; Nos. 66, 72, 700.

Only an applicant or his assignee may make entry under Sec. 2325, Revised Statutes, or have his name inserted in the certificate of entry; this regulation does not apply to proceedings under Sec. 2326, Revised Statutes. 2 L. D., 725; No. 66.

Regulations respecting entry by one applying as trustee. 2 L. D., 725; No. 66.

Entry will be allowed only when the register is satisfied that all the proofs required by the regulations are filed, and that they show a *bona fide* compliance with the law and regulations. 2 L. D., 726; No. 66.

Gives the entryman complete equitable title so far as third persons are concerned, which is not subject to forfeiture under Sec. 2324, R. S.; the validity of an entry depends on the facts existing when it is made, and not on the entryman's subsequent acts or omissions. 2 L. D., 770, 771; No. 700.

Where entry is erroneously canceled, the land is not subjected to appropriation by a stranger to the record who had located it while the entry was subsisting. 2 L. D., 769; No. 700.

Entry of lands (placer) containing borax, soda, alum, etc., in California, Nevada, Arizona, Utah, and Wyoming, may be made under regulations of October 31, 1881; whether same ruling should apply to oil, *quære*. 2 L. D., 708; No. 732.

Entry may be made by a purchaser in good faith of the interest of a register in a location (placer) made by himself. 2 L. D., 754; No. 747.

A protestant has no standing before the Department as a litigant. 2 L. D., 743, 749; Nos. 740, 744.

The form of a lode location need not necessarily be that of a parallelogram; the formation of a mineral deposit must govern. 3 L. D., 11; No. 749.

Surveyors-general required to note date of location on approved plats of survey. 3 L. D., 40; No. 750.

Survey of; instructions. 3 L. D., 542, 541; Nos. 89, 92; but see No. 126.

Valid location cannot be made on a tortious entry. 3 L. D., 267; No. 756.

Mineral value of tract claimed to be shown. 3 L. D., 536; No. 761.

Lode claim within placer restricted to twenty-five feet on either side thereof. 3 L. D., 388; No. 759.

The twenty-five feet referred to in Sec. 2333, R. S., is to be measured from the center of the lode. 3 L. D., 388; No. 759.

The burden of proof is upon the protestants. 3 L. D., 267; No. 756.

Patent issued to applicant, after quit-claim, priority of parties being shown. 3 L. D., 340; No. 757.

Protestant not entitled to appeal. 3 L. D., 422; No. 760.

Failure to post notice on mill-site portion of claim excused under the facts. 3 L. D., 386; No. 758.

Failure to adverse within period of publication leaves the plaintiff in the position of a protestant, 3 L. D., 422; No. 760.

The junior application should be treated as an adverse claim when the record shows the existence of the senior application. 3 L. D., 40; No. 750.

The second applicant not having filed adverse, being misled by the error of the register in receiving their application, allowed thirty days to institute suit. 3 L. D., 40; No. 750.

In the publication of notice figures must not be changed to words and charged for as thus extended. 3 L. D., 115; No. 880.

Water-right cannot be obtained under the guise of a placer claim. 3 L. D., 536; No. 761.

Where a town settlement is made upon a mineral claim the patent should contain the clause of reservation, even if the settlement is unprotected by entry. 3 L. D., 84; No. 2116; but see Nos. 842, 1526.

Where part of the claim included within the application was taken by assignment after litigation with a successful adverse claimant, evidence must be furnished showing the necessary expenditures thereon. 3 L. D., 149; No. 753.

Work done on a claim with the view of developing adjoining claim also, is available for both. 3 L. D., 267; No. 756.

Law and regulations contemplate that primary decision in, shall be made by the local office. 4 L. D., 377; No. 780.

The case coming upon appeal from the local office without a decision on the merits the papers are returned for its action. 4 L. D., 376; No. 780.

Under which the requirements of the law have been complied with confers a vested right. 4 L. D., 476; No. 781.

When applicant's affidavit may be made by an agent. 4 L. D., 374; No. 104.

Application for entry not properly followed up confers no exclusive rights. 4 L. D., 30; No. 763.

Certificate as to expenditure upon claim should be filed with application or during publication. 4 L. D., 17; No. 762.

Abstract to approximate date of application. 4 L. D., 374, 515; Nos. 104, 784.

Error in boundary of claim as shown by survey stakes may be corrected through the surveyor-general's office. 4 L. D., 117; No. 768.

The stay of proceedings, resulting from adverse claim, removed by waiver. 4 L. D., 120, 376; Nos. 768, 780.

Adverse claim must be asserted within the period of publication. 4 L. D., 30; No. 763.

Waiver of adverse claim effective when filed in the local office without reference to pending judicial proceedings thereon. 4 L. D., 117, 376; Nos. 768, 780.

The judgment of the court does not go beyond the right of possession. 4 L. D., 314; No. 776.

Hearing as to character of land and compliance with the law ordered after successful suit against adverse claim. 4 L. D., 314; No. 776.

Alien, after declaration of intention, may take advantage of his previous acts done under the mining law. 4 L. D., 565; No. 547.

Circular of December 14, 1885, modifying the practice under the Good Return Placer mine decision. 4 L. D., 374; No. 104.

Labor and improvements on land excluded from claim confer no rights. 4 L. D., 160; No. 770.

Survey of consolidated claim embracing several contiguous lode locations allowed. 4 L. D., 362; No. 777.

Additional proof allowed though the discovery and improvements appeared to be on land excluded from the claim. 4 L. D., 160; No. 770.

Failure to assert an alleged right in the courts, on due opportunity, debars its consideration when set up by an assignee who is not an "adverse claimant." 4 L. D., 271; No. 772.

Dismissal of suit by adverse claimant held a waiver of claim to ground in conflict, where the lode passed through the prior placer claim. 4 L. D., 273; No. 773.

Protest or adverse claim should be filed as against an application to protect rights under a prior townsite patent. 4 L. D., 555; No. 837.

Claimant for alleged known lode should apply for patent, though such lode is included in placer patent issued to another. 4 L. D., 494; No. 783.

The right to determine questions of possession in the courts necessarily involves all matters incidental thereto. 4 L. D., 273; No. 772.

Location of mill-site on non-mineral land, not contiguous to lode, protected from subsequent townsite appropriation. 4 L. D., 212; No. 2120.

Application not limited to single location. 4 L. D., 221, 284; Nos. 771, 775.

Though the application covers several locations, proof of $500 expended on the claim, as applied for, is sufficient. 4 L. D., 221, 374; Nos. 771, 104.

Where application covers several locations, an adverse claimant may show abandonment of any one of such locations. 4 L. D., 221; No. 771.

Preliminary showing of expenditure necessary to maintain possession required on application. 4 L. D., 221, 374; Nos. 771, 104.

How proof of annual expenditure should be shown. 4 L. D., 221, 374; Nos. 771, 104.

Annual expenditure required on each located placer claim. 4 L. D., 223, 374; Nos. 771, 104.

Several held in common kept alive by work done upon one of them. 4 L. D., 221; No. 771.

Relocation of claims never adjusted to the public survey allowed. 4 L. D., 221; No. 771.

The word "claim" discussed. 5 L. D., 199; No. 789b.

Local regulations recognized. 5 L. D., 131; No. 789.

Failure to comply with local regulations matter for protest or adverse suit. 5 L. D., 131; No. 789.

Preliminary proof for patent must show the claim valid at application. 5 L. D., 25; No. 785.

Notice must give the course and length of a line connecting the claim with a corner of the public surveys, or with a mineral monument. 5 L. D., 685; No. 795.

Failure to post on contiguous mill-site portion of claim excused, and the entry sent to the Board of Equitable Adjudication. 5 L. D., 513; No. 793.

How the period for filing adverse claims may be affected by the date of posting. 5 L. D., 510; No. 792.

Posting for 60 days sufficient if the same period is covered by publication. 5 L. D., 510; No. 792.

In giving notice of application the required period of time must be covered by each form of notice. 5 L. D., 510; No. 792.

Annual expenditure for claims held in common. 5 L. D., 199; No. 789b.

Purpose of survey and plats. 5 L. D., 199; No. 789b.

Survey of, should exhibit boundaries and conflicts. 5 L. D., 199; No. 789b.

Application for patent or survey may embrace several contiguous locations. 5 L. D., 199; No. 789b.

Appeal not accorded to protestant. 5 L. D., 93; No. 787.

Allegations of protest should receive full consideration. 5 L. D., 28; No. 786.

The right of a co-owner should be asserted as an adverse claimant. 5 L. D., 93; No. 787.

Both a water-right and a mill-site claim may be located on the same tract of land. 5 L. D., 190; No. 789a.

Actual use of land for mining or milling purposes contemplated by section 2337, R. S. 5 L. D., 190; No. 789a.

The discovery shaft being excluded, the applicant must show the existence of mineral on the remainder of the claim. 5 L. D., 703; No. 796.

Provisions of circular of May 11, 1885, extended to applications prior to December 4, 1884. 5 L. D., 468; No. 126.

COAL LANDS.

[Sections 2347, 2348, 2349, 2350, 2351, and 2352 United States Revised Statutes.]

RULES AND REGULATIONS.

Under the authority conferred by said section 2351 the following rules and regulations have been issued for carrying into effect the provisions of said law, addressed by the Department to the several district land officers, under date of July 31, 1882, viz:

1. Sale of coal lands is provided for—

By ordinary *private entry* under section 2347.

By granting a *preference right* of purchase, based on priority of possession and improvement, under section 2348.

2. The land entered under either section must be *by legal subdivisions*, as made by the regular United States survey. Entry is confined to surveyed lands; to such as are vacant, not otherwise appropriated, reserved by competent authority, or containing valuable minerals other than coal.

3. Individuals and associations may purchase. If an individual he must be twenty-one years of age and a citizen of the United States, or have declared his intention to become such citizen.

4. If an association of persons each person must be qualified as above.

5. A person is not disqualified by the ownership of any quantity of other land, nor by having removed from his own land in the same State or Territory.

6. Any individual may enter by legal subdivisions as aforesaid any area not exceeding one hundred and sixty acres.

7. Any association may enter not to exceed three hundred and twenty acres.

8. Any association of not less than four persons, duly qualified, who shall have expended not less than $5,000 in working and improving any coal mine or mines, may enter under section 2348 not exceeding six hundred and forty acres, including such mining improvements.

9. One person can have the benefit of one entry or filing *only*. He is disqualified by having made such entry or filing alone or as a member of an association. No entry can be allowed an association which has in it a single person thus disqualified, as the law prohibits the entry or holding of more than one claim either by an individual or an association.

10. Lands that are sufficiently valuable for gold, silver, or copper to prevent their entry as agricultural lands can not be entered as coal lands; and you will not allow any entry to be made under the above-named provisions of law of lands valuable for their deposits of said minerals.

11. The present rules relative to "hearings to establish the character of lands," contained in General Land Office regulations of October 31, 1881, issued under the mining laws, will, as far as applicable, govern your action in determining the character of lands sought to be entered as coal land.

12. The price per acre is $10 where the land is situated *more* than fifteen miles from any completed railroad, and $20 per acre where the land is *within* fifteen miles of such road. The price of the land, however, must be determined by its distance from a completed railroad at the date of payment and entry irrespective of the preference right of entry.

13. When application is made to purchase coal land at the rate of $10 per acre you will in all cases require satisfactory proof that the land applied for is at date of entry situated more than fifteen miles from any completed railroad. This proof may consist of the affidavit of the applicant, or that of his duly authorized agent, corroborated by the affidavit of some disinterested credible party showing personal knowledge of the facts.

14. Where the land lies *partly within* fifteen miles of such road and in *part outside* such limit, the *maximum* price must be paid for all legal subdivisions the greater part of which lie within fifteen miles of such road.

15. The term "completed railroad" is held to mean one which is actually constructed on the face of the earth; and lands within fifteen miles of any point of a railroad so constructed will be held and disposed of at $20 per acre.

16. Any duly qualified person or association must be preferred as purchasers of those public lands on which they have opened and improved or shall open and improve any coal mine or mines, and which they shall have in actual possession.

17. Possession by agent is recognized as the possession of the principal. The clearest proof on the point of agency must, however, be required in every case, and a clearly defined possession must be established.

18. The *opening and improving* of a coal mine, in order to confer a preference right of purchase, must not be considered as a mere matter of form; the labor expended and improvements made must be such as to clearly indicate the good faith of the claimant.

19. These lands are intended to be sold, where there are adverse claimants therefor, to the party who, by substantial improvements, actual possession, and a reasonable industry, shows an intention to continue his development of the mines in preference to those who would purchase for speculative purposes only. With this view you will require such proof of compliance with the law when lands are applied for under section 2348 by adverse claimants as the circumstances of each case may justify.

20. In conflicts where improvements have been or shall hereafter be commenced priority of possession and improvement shall govern the award when the law has been fully complied with by each party. A mere possession, however, without satisfactory improvements, will not secure the tract to the first occupant when a subsequent claimant shows his full compliance with the law.

21. After an entry has been allowed to one party you will make no investigation concerning it at the instance of any person except on instruction from this [General Land] office. You will, however, receive all affidavits concerning such case and forward the same to this [General Land] office, accompanied by a statement of the facts as shown by your records.

22. Prior to entry it is competent for you to order an investigation, on sufficient grounds set forth under oath of a party in interest and substantiated by the affidavits of disinterested and credible witnesses.

MANNER OF OBTAINING TITLE.

23. *First.* When title is sought by *private entry* the party will himself make oath to the following application, which must be presented to the register.

I, ——— ———, hereby apply, under the provisions of the Revised Statutes of the United States relating to the sale of coal lands of the United States, to purchase the ——— quarter of section ———, in township ———, of range

———, in the district of lands subject to sale at the land office at ———, and containing ——— acres; and I solemnly swear that no portion of said tract is in the possession of any other party; that I am twenty-one years of age, a citizen of the United States (or have declared my intention to become a citizen of the United States), and have never held nor purchased lands under said act, either as an individual or as a member of an association; and I do further swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that said land contains large deposits of coal and is chiefly valuable therefor; that there is not to my knowledge within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, or copper, and that there is not within the limits of said land, to my knowledge, any valuable deposits of gold, silver, or copper. So help me God.

——— ———.

24. Thereupon the register if the tract is vacant will so certify to the receiver, stating the price, and the applicant or his duly authorized agent must then pay the amount of purchase money.

25. The receiver will then issue to the purchaser a duplicate receipt, and at the close of the month the register and receiver will make returns of the sale to the General Land Office, from whence, when the proceedings are found regular, a patent or complete title will be issued; and on surrender of the duplicate receipt such patent will be delivered, at the option of the patentee, either by the Commissioner at Washington or by the register at the district land office.

26. This disposition at private entry will be subject to any valid prior adverse right which may have attached to the same land and which is protected by section 2348.

27. *Second.* When the application to purchase is based on a priority of possession, etc., as provided for in section 2348, the claimant must, when the township plat is on file in your office, file his declaratory statement for the tract claimed sixty days from and after the first day of his actual possession and improvement. Sixty days, exclusive of the first day of possession, etc., must be allowed.

28. The declaratory statement must be substantially as follows, to wit:

I, ——— ———, do solemnly swear that I am ——— years of age, and a citizen of the United States (or have declared my intention to become a citizen of the United States); that I never have, either as an individual or as a member of an association, held or purchased any coal lands under the provisions of the Revised Statutes of the United States relating to the sale of coal lands of the United States, and I do hereby declare my intention to purchase, under the provisions aforesaid, the —— quarter of section ——, in township ——, of range ——, of lands subject to sale at the district land office at ———, and that I came into possession of said tract on the —— day of ———, A. D., 18—, and have ever since remained in actual possession continuously; that I have located and opened a valuable mine of coal thereon, and have expended in labor and improvements on said mine the sum of —— dollars, the labor and improvements being as follows: [here describe the nature and character of the improvements]; and I do furthermore solemnly swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver, or copper, and that there is not within the limits of said lands, to my knowledge, any valuable deposit of gold, silver, or copper. So help me God,

——— ———.

29. When the township plat is not on file at date of claimant's first possession the declaratory statement must be filed within sixty days from the filing of such plat in your office.

30. One year from and after the expiration of the period allowed for filing the declaratory statement is given within which to make proof and payment; but you will allow no party to make final proof and payment except on notice to all others who appear on your records as claimants to the same tract.

31. A party who otherwise complies with the law may enter *after* the expiration of said year, *provided* no valid adverse right shall have intervened. He postpones his entry beyond said year at his own risk, and the Government cannot thereafter protect him against another who complies with the law, and the value of his improvements can have no weight in his favor.

32. Each claimant at the time of actual purchase must make affidavit as follows:

I,——— ———, claiming under the provisions of the Revised Statutes of the United States relating to the sale of coal lands of the United States, the right of purchase to the ——— quarter of section ———, in township ——— of range ———, subject to sale at ———, do solemnly swear that I have never had the right of purshase under the aforesaid provisions of law either as an individual or as a member of an association, and that I have never held any other lands under its provisions; I further swear that I have expended in developing coal mines on said tract in labor and improvements the sum of ——— dollars, the nature of such improvements being as follows: ——— ——— ———; that I am now in the actual possession of said mines, and make the entry for my own use and benefit and not directly or indirectly for the use and benefit of any other party; and I do furthermore swear that I am well acquainted with the character of said described land, and with each and every legal sub-division thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that the same is chiefly valuable for coal; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver, or copper, and that there is not within the limits of said land, to my knowledge, any valuable deposit of gold, silver, or copper. So help me God.

——— ———.

33. The application, declaratory statement, and the affidavit required at the time of actual purchase, the forms of which are given above under paragraphs 23, 28, and 32, may be sworn to before any officer authorized by law to administer oaths, but the authority of such officer must be properly shown.

34. Any party duly qualified under the law, *after* swearing to his application or declaratory statement, may, by a sufficient power of attorney duly executed under the laws of the State or Territory in which such party may then be residing, empower an agent to file with the register of the proper land office the application, declaratory statement, or affidavit required at the time of actual purchase, and also authorize him to make payment for an entry of the land in the name of such qualified party; and when such power of attorney shall have been filed in your office you will permit such agent to act thereunder as above indicated.

35. Where a claimant shows by affidavit that he is not personally acquainted with the character of the land, his duly authorized agent who possesses such knowledge may make the required affidavit as to its character; but whether this affidavit is made by principal or agent it must be corroborated by the affidavits of two disinterested and credible witnesses having knowledge of its character.

36. Nothing in these regulations shall be so construed as to prevent a party from proving his citizenship or age, or establishing the status of the lands sought to be entered, in accordance with ordinary rules of evidence, and any proof regularly introduced for that purpose that would be competent in a court or before a commissioner charged with the ascertainment of facts may be considered.

37. Assignments of the right to purchase will be recognized when properly executed. Proof and payment must be made, however, within the prescribed period, which dates from the first day of the possession of the assignor who initiated the claim.

COAL LAND RULINGS.

Price of dependent upon its distance from a completed railroad at date of entry, irrespective of the preferred right of entry. 1 L. D., 540; No. 688.

And iron lands in Alabama; circular of April 9, 1883. 1 L. D., 655; No. 64.

Sale of; circular of July 31, 1882. 1 L. D., 687; No. 47.

A filing appropriates the land and bars subsequent applications. 2 L. D., 728; No. 727.

The declaratory statement and affidavit must be made by the applicant himself; subsequently certain proofs and acts may be made by an agent; where the declaration was improperly made by an agent, in the absence of adverse filing or conflict it may be made by applicant himself *nunc pro tunc*. 1 L. D., 735; No. 746.

Where A filed and assigned to a company, the company may enter as assignees. 2 L. D., 728; No. 727.

The law only requires that no member of a company shall be interested in other land claimed or owned under the coal law at date of the entry. 2 L. D., 729; No. 727.

Price of, depends upon the proximity of the land to a completed railroad at the date of payment and entry, irrespective of the question of preferred right of entry. 2 L. D., 733; No. 725.

Price of, within fifteen miles of a completed railroad, is not affected by the fact that there is an inaccessible range of mountains between the lands and the railroad. 2 L. D., 733; No. 725.

Where the public surveys were erroneously extended over part of the Ute reservation (west of the 107th meridian), and persons went upon the land and filed prior or subsequently to its suspension from sale on October 7, 1880, they were trespassers until the act of July 28, 1882, legalized their occupancy; the completion of a railroad meanwhile within fifteen miles of the land enhanced its value. 2 L. D., 733; No. 725.

Coal lands are not mineral lands within the meaning of the act of June 3, 1878 (timber-cutting). 2 L. D., 827; No. 2044.

Must be entered by legal subdivisions. 3 L. D., 65; No. 751.

There is no authority for segregating the coal from the other land within a legal subdivision. 3 L. D., 65; No. 751.

That coal may be found upon land claimed by a pre-emptor, is immaterial if such mines are not known. 3 L. D., 172; No. 741.

Prior possession, without filing, will not avail as against an adverse claimant who has complied with the law. 4 L. D., 96; No. 766.

Covered by a homestead entry on March 3, 1883, must be publicly offered on the cancellation of such entry (Alabama). 4 L. D., 367; No. 779.

Proof as to character of land must show the actual production of mineral. 5 L. D., 126; No. 788.

Proof that adjoining lands have produced coal not sufficient. 5 L. D., 126; No. 788.

Proximity to a city does not affect claim. 5 L. D., 126; No. 788.

Each member of the association must show qualification. 5 L. D., 224; No. 790.

Entry of, disallowed as inconsistent with original claim. 5 L. D., 224; No. 791.

AMENDMENTS.

The Land Department has always permitted the amendment of an entry in the sense of the correction of an incorrect record (where an error had been made whereby the record failed to describe correctly the land which the claim-

ant intended to enter), provided no superior adverse right intervened prior to the application to amend. (Daniel Kesee, 5 L. D., 534).

Application by a party for amendment of an entry or filing should be made through the register and receiver of the proper district land office, accompanied by his affidavit, corroborated by that of disinterested witnessess, when possible, and any other evidence available, showing the error, and how made, what efforts were made to avoid error, any improvements made on the land, and any other facts of a nature to strengthen the claim. The register and receiver in transmitting the application, and accompanying papers for the action of the General Land Office, must give their joint opinion as to the existence of the mistake, and the credibility of the witnesses testifying thereto. (Christopher Nitschka, 7 L. D., 155.)

Amendments in other classes of cases are allowed on liberal principles as shown in the rulings subjoined.

AMENDMENT RULINGS.

APPLICATION.

Of homestead application, irregular because executed while land was appropriated, allowed (there being no adverse claim). 2 L. D., 270; No. 1810.

Timber-culture application, erroneous in form (naming wrong act) and returned for correction, takes effect as of the date upon which it was first received. 2 L. D., 44; No. 327.

Timber-culture application may not be altered or amended by an attorney, so as to include a different tract. 2 L. D., 261; No. 1845.

Coal land application, improperly made by an agent, may, in absence of adverse filing or complaint, be made *nunc pro tunc*. 2 L. D., 735; No. 746.

PRE-EMPTION FILING.

Settlement was made March, 1881, followed by residence and improvement, and filing was made by mistake for the wrong tract; amendment applied for in May, 1882, will not be allowed where adverse entry (homestead) was made in August, 1881, followed by residence and improvement. 2 L. D., 576; No. 1109.

Of filings may only be allowed subject to intervening adverse rights; cases cited. 2 L. D., 38, 577; Nos. 310, 1109.

HOMESTEAD ENTRY.

Prohibited after acquisition of an adverse right to the tract. 2 L. D., 38, 577; Nos. 310, 1109.

Allowed after contest commenced, where the tract was by mistake entered as an original instead of an adjoining farm homestead. 2 L. D., 38; No. 378.

Where settler entered the wrong tract by mistake, and failed to reside on either tract by reason of his wife's sickness, he may amend so as to embrace the tract originally selected if no adverse rights have meanwhile attached to it. 2 L. D., 170; No. 324.

Where one enters a tract by mistake and intentionally settles on and improves another tract, prior to act of May 14, 1880, he must amend his entry before intervention of a valid adverse right (pre-emption settlement and filing). 2 L. D., 575; No. 1085.

Where amendment is authorized, sixty days only are allowed for making it. 2 L. D., 206; No. 68a.

Allowed for adjacent land whereon the entryman had accidently cut timber. 2 L. D., 808; No. 366.

An amended entry founded on a misrepresentation of the facts should be canceled. 2 L. D., 576; No. 1085.

TIMBER-CULTURE ENTRY.

Refused, where another entry on the land had been allowed; but in view of the equities a second entry is permitted. 2 L. D., 253; No. 1804.

Entry was held for cancellation in May, 1879, because of illegality, in that it embraced lands in sections 14 and 23, with privilege of amending by including a contiguous tract in either section, but neither appeal, cancellation, nor amendment was made; in July, 1879, a railroad withdrawal embraced section 23, and in 1880 the entryman made a new entry including the tract originally entered and a contiguous tract in section 23; held that the second entry was an amendment of the first and valid. 2 L. D., 852; No. 1844.

CONTEST PAPERS.

The liberal policy of the several States in respect to amendments in judicial proceedings will be recognized and adopted by the Land Department, in so far as the amendment does not affect rights. 2 L. D., 39; No. 405.

A motion to dismiss for informalities in the affidavit should be granted, or amendment allowed. 2 L. D., 217, 221; Nos. 1822, 873.

The omission to file an application for the land in a timber-culture contest may be remedied prior to or at the hearing, if no other right has intervened. 2 L. D., 296, 319; Nos. 1842, 1860, but see circular June 27, 1887, No. 135.

Where affidavit (against timber culture entry) is executed prematurely, but filed at the proper time, it may be amended. 2 L. D., 249; No. 1859.

A defective affidavit of contest (lacking corroborating affidavit) returned by the local officers for amendment, and duly amended, will be regarded as filed, so as to bar another contest. 2 L. D., 39, 210; Nos. 405, 342.

The insertion by an attorney of the date of entry (timber-culture) in a blank form for contest, after the execution, is permissible. 2 L. D., 250; No. 1840.

Local officers should carefully examine the contest papers, point out their defects, and allow immediate amendment. 2 L. D., 260; No. 1796.

With regard to amendment, or second entry in lieu of amendment, see *Pre-emption, Homestead, and Timber-Culture Rulings.*

NATURALIZATION.

[From United States Land Office circular of October 1, 1871.]

The policy of admitting foreigners to the rights and privileges of citizenship is no longer problematical. It has been tested by an experience of over three-quarters of a century. The rapid extension of our western settlements is largely due to the influx of foreign immigration. The United States is the favorite land of the emmigrant. Other countries present equal attractions, in the natural advantages of soil, climate, and position, but have never yet attracted immigration to such an extent as this—in a great measure owing to the facilities for obtaining fertile lands in this country at cheap prices.

As aliens cannot avail themselves of the advantages and privileges derived from the homestead and pre-emption laws to acquire title to the public lands, privileges restricted to citizens or those who have declared their intention of becoming such, it is important that foreigners seeking identification with the American community should be advised of the legal steps necessary to acquire citizenship.

Any free alien over the age of twenty-one years may, at any time after his arrival, declare before any court of record having common law jurisdiction (with a clerk, and prothonotary, and seal) his intention to become a citizen, and to renounce forever all foreign allegiance. The declaration must be made at least two years before application for citizenship. At the expiration of two years after such declaration, and at any time after five years' residence, the party desiring naturalization, if *then* not a citizen, denizen, or subject of any country at war with the United States, must appear in a court of record, and there be sworn to support the Constitution of the United States, and renounce all foreign allegiance. If he possessed any title or order of nobility, it must also be renounced, and satisfactory proof produced to the court by the testimony of witnesses, citizens of the United States, of the five years' residence in

this country, one year of which must be within the State or Territory where the court is held, and that during the period of five years the applicant was a person of good moral character, and attached to the principles of the Constitution; whereupon he will be admitted to citizenship, and thereby his children under twenty-one years of age, if dwelling within the United States, will also be regarded as citizens.

When an alien has made his declaration and dies before being actually naturalized, the widow and children become citizens of the United States, and are entitled to all rights and privileges as such, upon taking the prescribed oaths.

Any alien, being a minor, and under the age of twenty-one years at time of arrival, who has resided in the country three years next preceding his majority, may, after reaching such period, and a five years' residence (including the three years of his minority), be admitted to citizenship without a previous declaration of intention, provided he then files such declaration, averring also, on oath, and proving to the court, that for the past three years it has been his intention to become a citizen, and also showing the fact of his residence and good character.

Children of citizens of the United States, born out of the country, are deemed citizens; the right, however, not descending to persons whose fathers never resided in the country; and any woman, who might legally be naturalized, married to a citizen of the United States, is held to possess citizenship.

An alien twenty-one years and over, who enlists in the regular or volunteer armies of the United States, and is honorably discharged therefrom, may be admitted to citizenship upon his simple petition and satisfactory proof of one years' residence prior to his application, accompanying the same with proof of good moral character and honorable discharge.

Recent conventions with several European powers have established that a naturalized citizen of the United States is free from all allegiance to his former Government.

NATURALIZATION RULINGS.

Record of court without clerk not received as evidence of. 1 L. D., 61; No. 249; see Nos. 486, 1500.

Through the father's act, during the son's minority, requires the latter's residence, at such time, to be within the United States. 1 L. D., 66; No. 254.

In the matter of, in Ohio, the probate court may be presumed to have a clerk. 1 L. D., 83; No. 270; see Nos. 486, 1500.

General statutes of, are not applicable to Indians. 1 L. D., 491; No. 1040.

The daughter of an alien who after filing his declaration of intention to become a citizen, died before taking out final papers, is deemed a citizen upon taking the prescribed oath; before doing so, she may initiate a pre-emption claim. 2 L. D., 611; No. 1072.

Is effected through the oath. 4 L. D., 111; No. 486.

Has a retroactive effect. 4 L. D., 565; No. 547; see No. 1180.

May be shown by copies of original papers, where final proof is made before an officer of a court of record. 4 L. D., 210; No. 932; see No. 983.

Declaration by the father, during the minority of the son, does not confer citizenship upon the son. 4 L. D., 116; No. 1180.

County courts of Colorado are authorized to admit an alien to citizenship. 4 L. D., 107, 342; Nos. 486, 1500

GENERAL HINTS

RELATIVE TO

GRANTS OF LAND TO AID IN THE CONSTRUCTION OF RAIL-ROADS.

GENERAL HINTS

RELATIVE TO

GRANTS OF LAND TO AID IN THE CONSTRUCTION OF RAILROADS.

The acts of Congress making grants to aid in the construction of railroads usually contain a grant of the right of way, and in some instances privilege of using the material necessary for the construction of the road, and a grant of every alternate section of land (designated by odd or even numbers) for a stated number of sections in width on each side of the line of the road as definitely fixed, with provision for indemnity for land sold, reserved, or to which the right of pre-emption or homestead had attached at the date said line is definitely fixed.

In some cases provision is made for the withdrawal from disposition of lands within the limits prescribed upon the filing of a map of general route, which reserves the lands until the road is definitely fixed.

The acts making such grants date back to September 20, 1850, (9 Stat., 456,) which is a grant to the States of Illinois, Mississippi, and Alabama for the benefit of the Illinois Central and Mobile and Ohio River railroads.

It was the custom in the administration upon the early grants to direct the withdrawal of all the lands liable to be included within the limits of the grants made, either just before or directly after the passage of the acts, and later diagrams were prepared showing the limits as established by the acts, and lands falling without said limits were restored, and any not included withdrawn.

Such withdrawals were generally no bar to settlement claims, which were admitted until the route was definitely fixed.

DETERMINATION OF LIMITS.

In the preparation of diagrams the lateral limits of a grant are determined by drawing lines on each side of the line of the road through a series of points at the precise distance therefrom of the width of the grant on tangential lines to arcs having a radius equal to the width of the grant on each side of the road.

By this system any point on the lateral limit will be distant the length of such radius from some point on the road as located.

This system has been invariably followed since 1850.

WHEN RIGHT ATTACHES TO LANDS WITHIN THE PRIMARY OR GRANTED LIMITS.

The first opinion, as to when the right of the roads attached, is that of December 19, 1856, by C. Cushing, Attorney-General, in which he held, referring to the act of May 15, 1856, granting lands to the State of Iowa for railroad purposes, "the act by its text, makes a conditional grant *in præsenti*, in the nature of a *float*, and which does not attach to any particular parcel of the public land until the necessary determinative lines shall have been fixed on the face of the earth."

This was generally followed and the right was held to have attached, upon survey in the field, until the decision of the United States Supreme Court, in the case of Van Wyck *vs.* Knevals, (106 U. S., 360), in which it was held that the

route must be considered definitely fixed when it has ceased to be the subject of change at the volition of the company. Until the map is filed with the Secretary of the Interior the company is at liberty to adopt such a route as it may deem best, after an examination of the ground has disclosed the feasibility and advantages of different lines. But when a route is adopted by the company and a map designating it is filed with the Secretary of the Interior and accepted by that officer, the route is established; it is, in the language of the act "definitely fixed," and cannot be the subject of future change so as to affect the grant, except upon legislative consent."

This decision has since been followed.

LANDS EXCEPTED FROM THE GRANT.

A homestead entry, made by a person duly qualified, which is in all respects regular and legal, excepts the land covered thereby from the operation of a railroad grant attaching during the existence of such entry. It will be noticed that the entry must be in all respects regular and legal, and where allegations were presented by the company tending to show fraud or irregularity in the initiation of the entry, opportunity was afforded the company to present proof thereof, and if sufficient, secured the cancellation of the entry, and the tract was held to inure to the grant.

This rule prevailed until in February, 1883, when it was held that a homestead entry, valid on its face, subsisting at the date the grant took effect, excepted the land embraced thereby from such grant. (Graham *vs.* Hastings and Dakota Railroad Company, 1st Land Decisions, 380.)

The case of the Kansas Pacific Railway Company *vs.* Dunmeyer, (113 U. S., 629,) followed, holding that land covered by homestead or pre-emption entry at the date the right of the road attached, did not come within the grant, and the subsequent failure of the person making such claim to comply with the law does not cause the land to revert to the company and become part of its grant.

As to a pre-emption claim which may have existed to a tract of land at the time of the attachment of a railroad grant, if subsequently abandoned and not consummated, even though in all respects legal and *bona fide*, it would not operate to defeat the grant, it being held that upon the failure of such claim the land covered thereby inured to the grant as of the date when such grant became effective.

Under this ruling, therefore, no hearing could be ordered for the purpose of ascertaining the facts respecting the settlement, occupation, improvement of the land by such pre-emption claimant, for even if such facts were established it must be held that the land inures to the grant. (See circular relative to adjustment of railroad grants, 1879.)

This rule prevailed until the decision in the case of Perkins *vs.* Central Pacific R. R. Co., (1st Land Decisions, 357,) when it was held:

"These grants to railroads are present grants; when they take effect they operate *eo instante* upon the lands within the granted limits. The grant is not held in abeyance to await the default of settlers, but the title vests or does not vest at once; and so far as regards the land in which the title does not vest at once, the claim of the company is at an end. If the grant is a present one, and the title does not vest when the grant takes effect, it cannot vest afterward.

"It was the intention of Congress that only such unoccupied lands as were not held under any claim recognized by the Government, should pass under the grant.

"The lands, therefore, in those sections to which the pre-emption and homestead claim had attached at the time the line of the road was fixed, were not granted at all. It was not a grant of the entire odd sections, subject to pre-emption and homestead claims thereon; but the grant did not touch the lands to which these claims had attached."

After the decision in the Dunmeyer case, before referred to, the tendency of the decisions was towards elevating a filing (a mere declaration) to the same dignity as a homestead entry, but it was not until the decision in the case of

Malone *vs.* Union Pacific Ry. Co., (7th Land Decisions, 13), that it was announced that "the existence of a *prima facie* valid pre-emption filing at the date when the right of the road attached, excepts the land covered thereby from the operation of the grant."

INDEMNITY LANDS.

In the withdrawal of lands under a grant, lands within the indemnity limit, or lieu lands, were withdrawn at the same time as were the coterminous granted lands, and the same general principles were applied to them as to the granted lands, *i. e.*, their right was held to have attached in the indemnity limits, at the same time as within the granted limits.

This practice continued until the decision in the case of Michael Ryan *vs.* Central Pacific Railroad Company, (99 U. S. 382), which held with respect to "lieu lands" that the right was only a float, and attached to no specific tracts until the selection was actually made in the manner prescribed.

Prior to the passage of the act of July 1, 1864, (13 Stat., 335), the companies were not required to make selections, the lists for approval or patent, were made up in the General Land Office from the tract books. By said act a fee was allowed the register and receiver upon the location of lands by States and corporations under grants from Congress for railroads and other purposes, (except for agricultural colleges), and it became necessary to make formal selections. In the early adjustment of the grants for railroads, indemnity was allowed for all lands sold, reserved, or disposed of within the granted limits, whether such sale, reservation, or disposal occurred before or after the granting act, but by the decisions based on that in the case of the Leavenworth, Lawrence and Galveston R. R. Co. *vs.* United States (2 Otto, 733), it was held that indemnity can only be allowed for lands sold, reserved, or disposed of in the granted limits after the granting act, and prior to the time when the railroad right attached, unless the grant was one of quantity specifically set forth in the act, and it consequently became necessary to know for what lands *in place* the indemnity selections were made, so, by the circular relative to the adjustment of railroad grants (1879) the registers and receivers were directed to require the companies to designate the specific tracts for which the lands selected are claimed.

The only exception to this requirement that the losses should be designated in making indemnity selection after 1879, was that in favor of the Northern Pacific Railroad Company. May 28, 1883, the Secretary of the Interior, having a desire to open for settlement as speedily as possible all lands within the indemnity limits of the grant for said company not actually required to supply the losses within the granted limits, in order to facilitate the work of making selections, directed that the local officers be instructed, when clear lists of selections are filed and approved by them, that said lists should at once be marked on their books and forwarded for final examination, leaving the ascertainment of the lands lost in place to the General Land Office.

Under the circular of August 4, 1885, the registers and receivers were directed before admitting railroad indemnity selections in any case to require preliminary lists to be filed specifying the particular deficiencies for which indemnity is claimed, and where indemnity selections have heretofore been made without specification of losses, to require the companies to designate the deficiencies for which such indemnity is to be applied before further selections are allowed.

This general statement as to the requirements in making indemnity selections is necessary to determine what selections were actually made in the *manner prescribed.*

The orders of withdrawal of lands for the following roads, as to the indemnity limits, have been revoked, and the lands, except those covered by approved selections, have been restored to the public domain:

Name of Road.	*Date of order of Revocation.*
Alabama and Chattanooga Railroad	August 15, 1887
Atlantic and Pacific Railroad	August 13, 1887
California and Oregon Railroad	August 15, 1887
Chicago, St. Paul, Minneapolis and Omaha Railway	August 17, 1887
Dalles Military Road	August 15, 1887
Flint and Pere Marquette Railroad	August 15, 1887
Florida Railway and Navigation	August 15, 1887
Gulf and Ship Island Railroad	August 15, 1887
Marquette, Houghton and Ontonagon Railroad	August 15, 1887
Missouri, Kansas and Texas Railway	August 17, 1887
Mobile and Girard Railroad	August 15, 1887
New Orleans Pacific Railway	August 15, 1887
Northern Pacific Railroad	August 15, 1887
Oregon and California Railroad	August 15, 1887
Oregon Central Wagon Road	August 15, 1887
Pensacola and Atlantic Railroad	August 15, 1887
St. Louis, Iron Mountain and Southern Railway	August 15, 1887
St. Paul and Duluth Railroad	August 15, 1887
Southern Pacific Railroad	August 15, 1887
Tennessee and Coosa Railroad	August 15, 1887
Vicksburg and Meridian Railroad	August 15, 1887
Vicksburg, Shreveport and Pacific Railroad	August 15, 1887
Wisconsin Central Railroad	August 15, 1887
Wisconsin Farm Mortgage	August 17, 1887
Burlington and Wisconsin River Railroad	December 15, 1887
Chicago, Rock Island and Pacific Railroad	December 15, 1887
Dubuque and Sioux City Railroad	December 15, 1887
Iowa Falls and Sioux City Railroad	December 15, 1887
Florida, Atlantic and Gulf Central Railroad	December 15, 1887
Pensacola and Georgia Railroad	December 15, 1887
Alabama and Florida Railroad	December 15, 1887
Tennessee and Coosa Railroad	December 15, 1887
South and North Alabama Railroad	December 15, 1887
Selma, Rome, and Dalton Railroad	December 15, 1887
Jackson, Lansing and Saginaw Railroad	December 15, 1887
Grand Rapids and Indiana Railroad	December 15, 1887
Chicago and Northwestern Railroad	December 15, 1887
St. Joseph and Denver City Railroad	December 15, 1887

RELINQUISHMENTS BY RAILROADS IN FAVOR OF SETTLERS.

An inducement is offered to such railroad companies as may be found entitled to lands held by actual settlers under the pre-emption or homestead laws to relinquish in favor of settlers, and receive other lands in lieu thereof, by an act of Congress approved June 22, 1874 (18 Stat., 194), which provides:

"That in the adjustment of all railroad land grants, whether made directly to any railroad company or to any State for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the pre-emption or homestead laws of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral, and within the limits of the grant, not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: *Provided*, That nothing herein contained shall in any man-

ner be so construed as to enlarge or extend any grant to any such railroad, or to extend to lands reserved in any land grant made for railroad purposes: *And provided further*, That this act shall not be construed so as in any manner to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to any railroad company when such lands have been entered by a pre-emption or homestead settler after the location of the line of the road and prior to the notice to the local land office of the withdrawal of such lands from market."

Upon the filing of such a relinquishment the land office is authorized to recognize the filing or entry of the settler in the same manner as if the land had not been granted to the railroad company.

To facilitate the adjustment of completing claims and give effect to the provisions of the act, the following rules were established:

1. When the superior right of the company is ascertained, and it is found that the claim of the settler is such that it would be admitted were the railroad claim extinguished, the General Land Office will, in all practicable cases, direct the attention of the officers of the company to the fact, and request an explicit answer whether or not the land will be relinquished.

2. Relinquishment may be made by a simple waiver of claim where the patent or its equivalent has not been issued in behalf of the company; but where title has passed, formal reconveyance will be required, as in other cases of the surrender of patents.

3. When making relinquishment, the company will be permitted to name the tract selected as indemnity; and in order that conflict with pending applications may be avoided, such relinquishment and selection should be filed with the register and receiver, and be noted upon their record before transmission to the General Land Office.

But in case the company desires to relinquish at once in favor of the settler, and trust to future selections for indemnity, such relinquishment may be sent direct to the General Land Office, and upon its receipt will be noted on the books, and the claim of the settler will be immediately released from suspension.

4. The selections must be of lands, not mineral, within the limits of the grant and withdrawal, free from other claims, and not reserved or otherwise appropriated at date of selection.

5. Where fees have been paid upon the original selection they will be applied to indemnity. Where tracts not yet formally selected are relinquished, fees will be charged upon the indemnity selections.

6. The selections will be reported by the register and receiver in the same manner as original selections, with a reference to the act by its date and title; and opposite each tract annotation will be made of the tract surrendered, and the name of the settler in whose favor it is relinquished, with the number of his entry or filing.

It is required, however, that a filing or entry shall have been admitted, and that the settlers claim shall be such as would be recognized in the absence of the railroad grant. The company acquires no right to the lieu tract until selection thereof is regularly made, and its right to make such a selection will not be considered until application is made for a specific tract.

A relinquishment under this act is made to the United States, and when accepted becomes at once operative, and the company is entitled to select lands in lieu of those relinquished, provided said lands were in such condition as to warrant relinquishment, without regard to the ability or intention of the settler to perfect his claim.

The land by reason of such relinquishment is released from all claim of the company, and is subject to disposal under the general land laws.

CONFIRMATION OF PRE-EMPTION AND HOMESTEAD CLAIMS IN RAILROAD LIMITS.

On the 21st of April, 1876, Congress, by an act entitled "An act to confirm pre-emption and homestead entries of public lands within the limits of rail-

road grants in cases where such entries have been made under the regulations of the Land Department," declared:

"That all pre-emption and homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the General Land Office, and where the pre-emption and homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed, and patent for the same shall issue to the parties entitled thereto.

"SEC. 2. That when at the time of such withdrawal as aforesaid valid pre-emption or homestead claims upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were re-entered by pre-emption or homestead claimants who have complied with the laws governing pre-emption or homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

"SEC. 3. That all such pre-emption and homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws, and the making of the proof required shall entitle the holder of such claim to a patent therefor." (19 Stat., p. 35.)

It has been held that the words "pre-emption and homestead entries," in the special sense in which they are used in the first section of the act, refer to *settlement* made in good faith by persons possessing the requisite legal qualifications.

Being a remedial statute, it must be liberally construed so as to include the remedy, and whether constitutional or not it must be enforced by the Land Department.

It was held that the act is mandatory, and confirms all claims coming within its terms, and that patent must issue, notwithstanding patent may have been issued to the railroad company for the same land, but in the case of the Wisconsin Central R. R. Co. *vs.* Stinka, (4th Land Decisions, 344,) it was held that "if the patent to the railroad company is for any reason invalid, and the settler herein has been injured in any way, the courts are the proper tribunals to adjudicate the matter."

Since said decision the practice of issuing a second patent has been discontinued.

The recent rulings under this act have gone so far as to hold that an entry made after filing of the map of definite location, but before the receipt of the order of withdrawal based thereon, is confirmed by the first section of the act, even though afterwards abandoned.

RIGHT-OF-WAY RAILROADS.

In addition to the clause contained in all grants of lands to aid in the construction of railroads granting the right of way, Congress, by act approved March 3, 1875, (18 Stat., 482) granted to railroads generally the right of way through the public lands of the United States.

The following is a copy of said act:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary

of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station-buildings, depots, machine shops, side-tracks, turn-outs, and water-stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.

"SEC. 2. That any railroad company whose right of way, or whose track or road-bed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of the said canyon, pass, or defile, for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade. And the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any wagon or other public highway now located therein, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile.

"SEC. 3. That the legislature of the proper Territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and where such provisions shall not have been made, such condemnation may be made in accordance with section 3 of the act entitled 'An act [to amend an act entitled An act] to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two,' approved July second, eighteen hundred and sixty-four.

"SEC. 4. That any railroad company desiring to secure the benefits of this act, shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road.

"SEC. 9. That this act shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands specially reserved from sale, unless such right of way shall be provided for by treaty stipulation or by act of Congress heretofore passed.

"SEC. 6. That Congress hereby reserves the right at any time to alter, amend, or repeal this act, or any part thereof."

This act is not in the nature of a grant of lands; it does not convey an estate in fee, either in the "right of way" or the grounds selected for depot purposes.

It is a right of use only, the title still remaining in the United States.

All persons settling on public lands to which a railroad right of way has attached, take the same subject to such right of way and must pay for the full area of the sub-divisions entered, there being no authority to make deductions in such cases.

If a settler has a valid claim to land existing at the date of the approval of the map of definite location of a railroad company, his right is superior, and he is entitled to such reasonable measure of damages for "right of way," etc., as may be determined upon by agreement, or in the courts, the question being one that does not fall within the jurisdiction of the Land Department.

REPAYMENT.

In making the grants to aid in the construction of railroads, Congress increased in price the reserved sections, and lands which were increased in price upon early location, more properly speaking, trial lines, or upon general route, often fell without the granted limits as established upon the line as "definitely fixed."

By the second section of the act of Congress approved June 16, 1880 (21 Stat., 287), it is provided that in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall be repaid to the purchaser thereof, or to the heirs or assignees. Application for repayment must be made in regular form.

RESTORED RAILROAD LANDS.

The act of January 13, 1881, entitled "An act for the relief of certain settlers on restored railroad lands," provides:

"That all persons who shall have settled and made valuable and permanent improvements upon any odd-numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the pre-emption, homestead, or timber-culture acts of the United States, shall be permitted at any time within three months after such restoration, and under such rules and regulations as the Commissioner of the General Land Office may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same, by legal subdivisions, at the price of two dollars and fifty cents per acre, and to receive patents therefor."

This act applies to settlements upon odd-numbered sections embraced within railroad withdrawals, whether such settlements and withdrawals shall have been made before or after passage of the act, but in order to bring a purchaser within the provisions of the act, he must have actually settled and made valuable improvements upon the land, in good faith, before the restoration of the land to the public domain, and with permission or license of the railroad company for whose benefit the withdrawal was made, and with the expectation of purchasing from said company the land so settled upon.

Only the actual settler at the date of restoration can be permitted to make such purchase, and only land in withdrawn or restored odd-numbered sections can be so purchased.

This act has no application to persons, who, without actual settlement, may have improved the land, nor to these, who, without actual settlement and improvement, may have purchased the land of the railroad company.

When the land is subject to entry under the pre-emption, homestead, or timber-culture laws, and the settler is qualified to make such an entry, he is authorized to proceed under the law applicable to the case. He can have the benefit of this act only when he is excluded from the benefit of said laws.

ADJUSTMENT OF LAND GRANTS.

The act of March 3, 1887 (24 Stat., 556), authorizes and directs the Secretary of the Interior to immediately adjust, in accordance with the decisions of the

supreme court, each of the railroad land grants made by Congress to aid in the construction of railroads, as heretofore adjusted.

Below is printed the instructions of the Secretary of the Interior to the Commissioner of the General Land Office relative to said act.

The second section of said act provides—

"That if it shall appear, upon the completion of such adjustments respectfully (respectively), or sooner, that lands have been, from any cause, heretofore erroneously certified or patented by the United States to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall be made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title to the United States."

The provision contained in this section confers no greater power upon the Secretary of the Interior than he possessed before the passage of that act, and which from time to time has been exercised by that official in recommending to the Attorney-General that suits be brought to cancel patents appearing to have been erroneously certified or patented for the benefit of any railroad company.

The purpose of the act was to make that mandatory which before rested in the discretion of the Secretary in the exercise of his authority over the public lands. Heretofore the Secretary of the Interior might recommend and request the Attorney-General to institute suits for the cancellation of patents which, in his judgment, were erroneously issued for the benefit of any railroad company under its grants, and the Attorney-General in the exercise of his authority might grant or refuse such request as in his judgment might seem proper; but in the act referred to, whenever it shall appear upon the completion of the adjustment of any railroad land grant, or sooner, that any lands have been erroneously certified or patented for the benefit of said company, it is made the imperative duty of the Secretary of the Interior to demand of said company a relinquishment or reconveyance to the United States of all such lands; and if the company neglects or fails to reconvey the same, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts necessary proceedings to cancel the patents of said lands, and to restore the title thereof to the United States.

Therefore, if in the adjustment of the grant of any road it should appear from the records in your office that any lands within either the granted or indemnity limits of such road have been erroneously certified or patented for the benefit of such company, either from an improper adjustment of the limits of said grant, or from the erroneous cancellation of any filing or entry, or from any cause whatever, you will report such facts to the Department for action thereon, stating fully and specifically the grounds upon which it is supposed such tracts were erroneously certified or patented, and whether said tracts are within the granted or indemnity limits of said road.

The third section of said act provides—

"That if, in the adjustment of said grants, it shall appear that the homestead or pre-emption entry of any *bona fide* settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws. *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of

under the public land laws, with priority of right given to *bona fide* purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to *bona fide* settlers residing thereon."

This section does not embrace any lands that have been certified or patented to the company, but has reference solely to lands, the right and claim to which has heretofore been adjudicated in favor of the company as against the right of a settler upon said lands, and which are still under the control and jurisdiction of the Department. The object and purpose of this section is to correct all decisions made by the Department or the General Land Office where it shall appear in the examination of any land grant heretofore unadjusted that the homestead or pre-emption entry of a *bona fide* settler was erroneously canceled. In such a case a final decision of a former or the present Secretary is not only no longer a bar to the further consideration of the question to be decided, but it is made the duty of the Secretary to readjudicate the case, notwithstanding the former decision, whenever it appears that the pre-emption or homestead entry of any *bona fide* settler has been erroneously canceled on account of any railroad grant or of withdrawal of public lands from market.

In the adjustment of every grant to aid in the construction of railroads you will make report upon all pre-emption and homestead entries of *bona fide* settlers that may in your judgment appear from the records of your office to hav been erroneously canceled either because the land is within the limits of the railroad grant or because it has been withdrawn for indemnity purposes for said road, provided the right to the tract has been decided in favor of the company, and forward said report to the Department for consideration and action thereon, stating fully and specifically as to each particular tract, the grounds upon which you may determine that said pre-emption and homestead entries were erroneously canceled, and the right to the land erroneously decided in favor of the company; and upon filing said report you shall cause notice thereof to be given to both parties advising them that said case will be held by this Department for thirty days before action, during which time they can make such showing as they may desire.

If in such report you should determine that the pre-emption or homestead entry of any *bona fide* settler has been erroneously canceled and the right to the land adjudged in favor of the railroad and your decision thereon shall be sustained by the Department, after due notice the land will then be subject to disposal as provided for in said section; that is, the settler whose entry was erroneously canceled will be notified of his right to make application to be reinstated in all his rights, and if such settler shall make such application within a reasonable time, to be fixed by the Secretary of the Interior in such notice, he shall be reinstated in all his rights: *Provided*, That he shows affirmatively that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry. If said settler should fail to make application within the time required, and to show that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right to *bona fide* purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to *bona fide* settlers residing thereon. The *bona fide* purchasers here referred to are those who, without knowledge of wrong or error, have purchased from the railroad company lands which had been previously entered by the pre-emption or homestead settler, whose entry has been erroneously canceled as described in the first clause of the third section, and which land the pre-emption or homestead settler did not elect to claim after recovery by the proceedings prescribed by the second section of the act.

As to the lands which have been erroneously certified or patented to the company (being the lands referred to in the second section), the fourth section of the act provides for the disposal of such of those lands as may have been sold by the company to citizens of the United States or persons who have declared their intention to become such citizens upon the following conditions:

After said lands shall have been reconveyed to the Government, or the title to the same recovered, the class of persons above referred to so purchasing in good faith, their heirs or assignees, shall be entitled to the land so purchased upon making proof of such purchase at the proper land office within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted, and patent shall issue to such persons which shall relate back to the original certification or patenting. The section then provides that the Secretary of the Interior shall demand of the company payment for said lands of an amount equal to the Government price of similar lands, and in case of the neglect or refusal of the company to make payment thereof within ninety days after demand, the Attorney-General shall cause suits to be brought against the company for said amount. Under the act the purchaser of such lands from the company may recover from the company the purchase-money paid by him less the amount paid by the company to the United States.

A mortgage or pledge of said lands by the company is not a sale within the meaning of the act.

The object of this section is to confirm to the purchaser the title to the lands therein referred to upon making proof of such purchase, and that the purchaser has the qualifications required by the act without requiring of the purchaser any further payment to the Governmnet of the purchase price of said land.

The fifth section of said act reads as follows:

That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the *bona fide* purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said *bona fide* purchaser, his heirs or assigns: *Provided*, That all lands shall be excepted from the provisions of this section which at the date of such sales were in the *bona fide* occupation of the adverse claimants under the pre-emption or homestead laws of the United States, and whose claims and occupation have since been voluntarily abandoned, as to which excepted lands the said pre-emption and homestead claimants shall be permitted to perfect their proofs and entries and to receive patent therefor; *Provided further*, That this section shall not apply to lands settled upon subsequent to the first day of December, 1882, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

Under this section, when the company has sold to citizens of the United States or persons who have declared their intention to become such citizens, the numbered sections prescribed in the grant and coterminous with the constructed portions of the road, within either the granted or indemnity limits, and which upon the adjustment of the grant are shown to be excepted from the operation of the grant, it shall be lawful for such purchasers (if their purchases are *bona fide*) to purchase said land from the Government by payment of the Goverment price for like lands, unless said lands were at the date of purchase in the *bona fide* occupation of adverse claimants under the pre-emption or homestead laws, in which case the pre-emptor or homestead claimant may be permitted to perfect his proof unless he has since voluntarily abandoned the land.

Under the last proviso of said section, however, if a settlement was made on said lands subsequent to December 1, 1882, by persons claiming the same under the settlement laws of the United States, it will defeat the right of the purchaser whether said purchase was made prior to or subsequent to December 1, 1882, and the settler will be allowed to prove up for said lands as in other like cases.

The sixth section provides that when any such lands have been sold and conveyed as the property of the company for State and county taxes, and the grant to the company has been thereafter forfeited, the purchaser at such sale shall have the preference right for one year from the date of the act in which to purchase said lands from the United States by paying the Government price for said lands, provided said lands were not previous to or at the time of the taking effect of such grant in the possession of or subject to the right of an actual settler.

The seventh section provides:

"That no more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which such State, corporation, or individual would be rightfully entitled."

RULES OF PRACTICE

IN CASES BEFORE TH

UNITED STATES DISTRICT LAND OFFICES, THE GENERAL LAND OFFICE, AND THE DEPARTMENT OF THE INTERIOR.

Approved August 13, 1885, to Take Effect September 1, 1885.

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UNITED STATES DISTRICT LAND OFFICES, THE GENERAL LAND OFFICE, AND THE DEPARTMENT OF THE INTERIOR.

APPROVED AUGUST 13, 1885, TO TAKE EFFECT SEPTEMBER 1, 1885.

I.

PROCEEDINGS BEFORE REGISTERS AND RECEIVERS.

1.—Initiation of contests.

RULE 1. Contest may be initiated by an adverse party or other person against a party to an entry, filing, or other claim under laws of Congress relating to the public lands, for any sufficient cause affecting the legality or validity of the claim. See Nos. 879, 882, 1092.*

RULE 2. In every case of application for a hearing an affidavit must be filed by the contestant with the register and receiver, fully setting forth the facts which constitute the grounds of contest. See Nos. 313, 321, 328, 342, 1128, 1888.

RULE 3. Where an entry has been allowed and remains of record the affidavit of the contestant must be accompanied by the affidavits of one or more witnesses in support of the allegations made. See Nos. 313, 321, 328, 342, 887, 1128 1857, 1888.

2.—Hearing in contested cases.

RULE 4. Registers and receivers may order hearings in all cases wherein entry has not been perfected and no certificate has been issued as a basis for patent. See Nos. 856, 879, 883.

RULE 5. In case of an entry or location on which final certificate has been issued the hearing will be ordered only by direction of the Commissioner of the General Land Office. See Nos. 887, 1071.

RULE 6. Applications for hearings under Rule 5 must be transmitted by the register and receiver, with special report and recommendation, to the Commissioner for his determination and instructions. See Nos. 313, 580, 887.

3.—Notice of contest.

RULE 7. At least thirty days' notice shall be given of all hearings before the register and receiver unless by written consent an earlier day shall be agreed upon. See Nos. 540, 739, 869, 887.

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*The numbers given after the Rules refer to numbers of decisions in Matthews & Conway's Digest.

RULE 8. The notice of contest and hearing must conform to the following requirements:

1. It must be written or printed.
2. It must be signed by the register and receiver, or by one of them.
3. It must state the time and place of hearing.
4. It must describe the land involved.
5. It must state the register and receiver's number of the entry and the land office where, and the date when, made, and the name of the party making the same.
6. It must give the name of the contestant, and briefly state the grounds and purpose of the contest.
7. It may contain any other information pertinent to the contest. See Nos. 857, 869, 1061.

4.—Service of notice.

RULE 9. Personal service shall be made in all cases when possible if the party to be served is resident in the State or Territory in which the land is situated, and shall consist in the delivery of a copy of the notice to each person to be served. See numbers 368, 523, 539, 854, 869, 1061, 1915, 1987.

RULE 10. Personal service may be executed by any officer or person. See No. 869.

RULE 11. Notice may be given by publication alone only when it is shown by affidavit of the contestant, and by such other evidence as the register and receiver may require, that due diligence has been used and that personal service cannot be made. The party will be required to state what effort has been made to get personal service. See Nos. 187, 201, 368, 539, 854, 869, 963, 1888, 1915, 1929, 1987.

RULE 12. When it is found that the prescribed service cannot be had, either personal or by publication, in time for the hearing provided for in the notice, the notice may be returned prior to the time fixed for the hearing, and a new notice issued fixing another time of hearing, for the proper service thereof, an affidavit being filed by the contestant showing due diligence and inability to serve the notice in time. See Nos. 869, 963.

5.—Notice by publication.

RULE 13. Notice by publication shall be made by advertising the notice at least once a week for four successive weeks in some newspaper published in the county wherein the land in contest lies; and if no newspaper be published in such county, then in the newspaper published in the county nearest to such land. The first insertion shall be at least thirty days prior to the day fixed for the hearing. See act of June 3, 1878, 20 U. S. Stats., p. 91, and Nos. 963, 1908, 1912.

RULE 14. Where notice is given by publication, a copy of the notice shall be mailed by registered letter to the last known address of each person to be notified thirty days before date of hearing, and a like copy shall be posted in the register's office during the period of publication, and also in a conspicuous place on the land, for at least two weeks prior to the day set for the hearing. See Nos. 121, 854, 869, 963, 1888, 1912, 1915, 2003.

6.—Proof of service of notice.

RULE 15. Proof of personal service shall be the written acknowledgment of the person served or the affidavit of the person who served the notice attached thereto, stating the time, place, and manner of service. See Nos. 739, 853, 963.

RULE 16. When service is by publication, the proof of service shall be a copy of the advertisement, with the affidavit of the publisher or foreman attached thereto, showing that the same was successively inserted the requisite number of times, and the date thereof. See Nos. 739, 869.

7.—Notice of interlocutory proceedings.

RULE 17. Notice of interlocutory motions, proceedings, orders, and decisions shall be in writing, and may be served personally or by registered letter, through the mail to the last known address of the party. See Nos. 78, 121, 622, 1031, 1972.

RULE 18. Proof of service by mail shall be the affidavit of the person who mailed the notice, attached to the post office receipt for the registered letter.

8.—Rehearings.

RULE 19. Orders for rehearing must be brought to the notice of the parties in the same manner as in case of original proceedings.

9.—Continuances.

RULE 20. A postponement of a hearing to a day to be fixed by the register and receiver may be allowed on the day of trial on account of the absence of material witnesses, when the party asking for the continuance makes an affidavit before the register and receiver showing—

1. That one or more of the witnesses in his behalf is absent without his procurement or consent;
2. The name and residence of each witness;
3. The facts to which they would testify if present;
4. The materiality of the evidence;
5. The exercise of proper diligence to procure the attendance of the absent witnesses; and
6. That affiant believes said witnesses can be had at the time to which it is sought to have the trial postponed;
7. Where hearings are ordered by the Commissioner of the General Land Office in cases to which the United States is a party, continuances will be granted in accordance with the usual practice in United States cases in the courts, without requiring an affidavit on the part of the Government. See Nos. 471, 508, 852, 853, 931, 952, 1001, 1950, 1996.

RULE 21. One continuance only shall be allowed to either party on account of absent witnesses, unless the party applying for a further continuance shall at the same time apply for an order to take the depositions of the alleged absent witnesses.

RULE 22. No continuance shall be granted when the opposite party shall admit that the witnesses would, if present, testify to the statement set out in the application for continuance. See Nos. 422, 471, 508, 931, 1950.

10.—Depositions on interrogatories.

RULE 23. Testimony may be taken by deposition in the following cases:

1. Where the witness is unable, from age, infirmity, or sickness, or shall refuse to attend the hearing at the local land office.
2. Where the witness resides more than fifty miles from the place of trial, computing distance by the usually traveled route.
3. Where the witness resides out of or is about to leave the State or Territory, or is absent therefrom.
4. Where from any cause it is apprehended that the witness may be unable or will refuse to attend, in which case the deposition will be used only in event that the personal attendance of the witness cannot be obtained. See Nos. 931, 1911.

RULE 24. The party desiring to take a deposition under Rule 23 must comply with the following regulations:

1. He must make affidavit before the register or receiver, setting forth one or more of the above named causes for taking such deposition, and that the witness is material.

2. He must file with the register and receiver the interrogatories to be propounded to the witness.

3. He must state the name and residence of the witness.

4. He must serve a copy of the interrogatories on the opposing party or his attorney. See Nos. 508, 931, 1911.

RULE 25. The opposing party will be allowed ten days in which to file cross-interrogatories.

RULE 26. After the expiration of the ten days allowed for filing cross-interrogatories a commission to take the deposition shall be issued by the register and receiver, which commission shall be accompanied by a copy of all the interrogatories filed.

RULE 27. The register and receiver may designate any officer authorized to administer oaths within the county or district where the witness resides to take such deposition.

RULE 28. It is the duty of the officer before whom the deposition is taken to cause the interrogatories appended to the commission to be written out and the answers thereto to be inserted immediately underneath the respective questions, and the whole, when completed, is to be read over to the witness, and must be by him subscribed and sworn to in the usual manner before the witness is discharged.

RULE 29. The officer must attach his certificate to the deposition, stating that the same was subscribed and sworn to by the deponent at the time and place therein mentioned.

RULE 30. The deposition and certificate, together with the commission and interrogatories, must then be sealed up, the title of the cause endorsed on the envelope, and the whole returned by mail or express to the register and receiver.

RULE 31. Upon receipt of the package at the local land office, the date when the same is opened must be endorsed on the envelope and body of the deposition by the local land officers.

RULE 32. If the officer designated to take the deposition has no official seal, a proper certificate of his official character, under seal, must accompany his return.

RULE 33. The parties in any case may stipulate in writing to take depositions before any qualified officer, and in any manner.

RULE 34. All stipulations by parties or counsel must be in writing, and be filed with the register and receiver.

11.—Oral testimony before other officers than registers and receivers.

RULE 35. In the discretion of registers and receivers testimony may be taken near the land in controversy before a United States commissioner or other officer authorized to administer oaths, at a time and place to be fixed by them and stated in the notice of hearing. See Nos. 523, 540, 864, 879, 883, 888, 893, 1916.

2. Officers taking testimony under the foregoing rule will be governed by the rules applicable to trials before registers and receivers. (See Rules 36 to 42 inclusive.) See No. 904.

3. Testimony so taken must be certified to, sealed up, and transmitted by mail or express to the register and receiver, and the receipt thereof at the local office noted on the papers, in the same manner as provided in case of depositions by Rules 29 to 32 inclusive.

4. On the day set for hearing at the local office the register and receiver will examine the testimony taken by the officer designated, and render a decision thereon in the same manner as if the testimony had been taken before themselves. (See Rules 50 to 53 inclusive.) See No. 892.

5 No charge for examining testimony in such cases will be made by the register and receiver.

6. Officers designated to take testimony under this rule will be allowed to charge such fees as are properly authorized by the tariff of fees existing in the

local courts of their respective districts, to be taxed in the same or equivalent manner as costs are taxed by registers and receivers under rules 54 to 58 inclusive.

7. When an officer designated to take testimony under this rule, or when an officer designated to take depositions under Rule 27, cannot act on the day fixed for taking the testimony or deposition, the testimony or deposition, as the case may be, will be deemed properly taken before any other qualified officer, at the same time and place, who may be authorized by the officer originally designated, or by agreement of parties, to act in the place of the officer first named.

12.—Trials.

RULE 36. Upon the trial of a cause the register and receiver may in any case, and should in all cases when necessary, personally direct the examination of the witnesses, in order to draw from them all the facts within their knowledge requisite to a correct conclusion by the officers upon any point connected with the case.

RULE 37. The register and receiver will be careful to reach, if possible, the exact condition and status of the land involved by any contest, and will ascertain all the facts having any bearing upon the rights of parties in interest. See No. 2094.

RULE 38. In pre-emption cases they will particularly ascertain the nature, extent, and value of alleged improvements; by whom made, and when; the true date of the settlement of persons claiming; the steps taken to mark and secure the claim, and the exact status of the land at that date as shown upon the records of their office. See No. 2094.

RULE 39. In like manner, under the homestead and other laws, the conditions affecting the inception of the alleged right, as well as the subsequent acts of the respective claimants, must be fully and specifically examined.

RULE 40. Due opportunity will be allowed opposing claimants to confront and cross-examine the witnesses introduced by either party.

RULE 41. No testimony will be excluded from the record by the register and receiver on the ground of any objection thereto; but when objection is made to testimony offered, the exceptions will be noted, and the testimony, with the exceptions, will come up with the case for the consideration of the Commissioner. Officers taking testimony will, however, summarily put a stop to obviously irrelevant questioning. See Nos. 853, 1080, 1950.

RULE 42. Upon the day originally set for hearing, and upon any day to which the trial may be continued, the testimony of all the witnesses present shall be taken and reduced to writing. When testimony is taken in short-hand, the stenographer's notes must be written out, and the written testimony then and there subscribed by the witness and attested by the officer before whom the same is taken. See Nos. 540, 1080.

13—Appeals.

RULE 43. Appeals from the final action or decisions of registers and receivers lie in every case to the Commissioner of the General Land Office. (Revised Statutes, sections 453, 2478.) See No. 794.

RULE 44. After a hearing in a contested case has been had and closed the register and receiver will, in writing, notify the parties in interest of the conclusions to which they have arrived, and that thirty days are allowed for an appeal from their decision to the Commissioner, the notice to be served personally or by registered letter through the mail to their last known address. See Nos. 78, 86, 121, 527 ,580, 819, 892, 962, 1057, 1061, 1183, 1454, 1802.

RULE 45. The appeal must be in writing or in print, and should set forth in brief and clear terms the specific points of exception to the ruling appealed from. See No. 1057.

RULE 46. Notice of appeal and copy of specification of errors shall be served on appellee within the time allowed for appeal, and appellee shall be allowed ten days for reply before transmittal of the record to the General Land Office. See Nos. 28, 527, 580, 1183.

RULE 47. No appeal from the action or decisions of the register and receiver will be received at the General Land Office unless forwarded through the local officers.

RULE 48. In case of a failure to appeal from the decision of the local officers, their decision will be considered final as to the facts in the case, and will be disturbed by the Commissioner only as follows:

1. Where fraud or gross irregularity is suggested on the face of the papers.
2. Where the decision is contrary to existing laws or regulations.
3. In event of disagreeing decisions by the local officers.
4. Where it is not shown that the party against whom the decision was rendered was duly notified of the decision and of his right of appeal. See Nos. 350, 580, 598, 794, 962, 992, 998, 1194, 1210, 1454, 1571, 1731.

RULE 49. In any of the foregoing cases the Commissioner will reverse or modify the decision of the local officers or remand the case, at his discretion. See No. 962.

RULE 50. All documents once received by the local officers must be kept on file with the cases, and the date of filing must be noted thereon; and no papers will be allowed under any circumstances to be removed from the files or taken from the custody of the register and receiver, but access to the same, under proper rules, so as not to interfere with necessary public business, will be permitted to the parties in interest, or their attorneys, under the supervision of those officers. See No. 28.

14.—Reports and opinions.

RULE 51. Upon the termination of a contest the register and receiver will render a joint report and opinion in the case, making full and specific reference to the postings and annotations upon their records. See Nos. 527, 892, 1004, 1006, 1915, 1932.

RULE 52. The register and receiver will promptly forward their report, together with the testimony and all the papers in the case, to the Commissioner of the General Land Office, with a brief letter of transmittal, describing the case by its title, the nature of the contest, and the tract involved. See Nos. 136, 527, 876, 1932, 1983.

RULE 53. The local officers will thereafter take no further action affecting the disposal of the land in contest until instructed by the Commissioner. See Nos. 303, 305, 430, 527, 1004, 1846, 1820, 1983, 2118.

15.—Taxation of costs.

RULE 54. Parties contesting pre-emption, homestead, or timber-culture entries and claiming preference rights of entry under the second section of the act of May 14, 1880 (21 Stat., 140), must pay the costs of contest. See No. 422.

RULE 55. In other contested cases each party must pay the costs of taking testimony upon his own direct and cross-examination.

RULE 56. The accumulation of excessive costs under rule 54 will not be permitted; but where the officer taking testimony shall rule that a course of examination is irrelevant, and check the same under rule 41, he may, nevertheless, in his discretion, allow the same to proceed at the sole cost of the party making such examination.

RULE 57. Where parties contesting pre-emption, homestead, or timber-culture entries establish their right of entry under the pre-emption or homestead laws of the land in contest by virtue of actual settlement and improvement, without reference to the act of May 14, 1880, the cost of contest will be adjudged under Rule 55.

RULE 58. Registers and receivers will apportion the costs of contest in accordance with the foregoing rules, and may require the party liable thereto to give security in advance of trial, by deposit or otherwise, in a reasonable sum or sums, for payment of the costs of transcribing the testimony. See No. 931.

RULE 59. The costs of contest chargeable by registers and receivers are the legal fees for reducing testimony to writing. No other contest fees or costs will be allowed to or charged by those officers directly or indirectly.

RULE 60. Contestants must give their own notices and pay the expenses thereof.

RULE 61. Upon the termination of a trial, any excess in the sum deposited as security for the costs of transcribing the testimony will be returned to the proper party.

RULE 62. When hearings are ordered by the Commissioner or by the Secretary of the Interior, upon the discovery of reasons for suspension in the usual course of examination of entries, the preliminary costs will be provided from the contingent fund for the expenses of local land offices.

RULE 63. The preliminary costs provided for by the preceding section will be collected by the register and receiver when the parties are brought before them in obedience to the order of hearing.

RULE 64. The register and receiver will then require proper provision to be made for such further notification as may become necessary in the usual progress of the case to final decision.

RULE 65. The register and receiver will append to their report in each case a statement of costs and the amount actually paid by each of the contestants, and also a statement of the amount deposited to secure the payment of the costs, how said sum was apportioned, and the amount returned, if any, and to whom.

16.—Appeals from decisions rejecting applications to enter public lands.

RULE 66. For the purpose of enabling appeals to be taken from the rulings or action of the local officers relative to applications to file upon, enter, or locate the public lands, the following rules will be observed:

1. The register and receiver will endorse upon every rejected application the date when presented and their reasons for rejecting it.

2. They will promptly advise the party in interest of their action and of his right of appeal to the Commissioner.

3. They will note upon their records a memorandum of the transaction. See Nos. 427, 588, 881, 1808.

RULE 67. The party aggrieved will be allowed thirty days from receipt of notice in which to file his appeal in the local land office. Where the notice is sent by mail, five days additional will be allowed for the transaction of notice and five for the return of the appeal. See No. 1808.

RULE 68. The register and receiver will promptly forward the appeal to the General Land Office, together with a full report upon the case. See Nos. 881, 1808.

RULE 69. This report should recite all the facts and the proceedings had, and must embrace the following particulars:

1. A statement of the application and rejection, with the reasons for the rejection.

2. A description of the tract involved and a statement of its status, as shown by the records of the local land office.

3. References to all entries, filings, annotations, memoranda, and correspondence shown by the record relating to said tract and to the proceedings had. See No. 1808.

RULE 70. Rules 43 to 48, inclusive, and Rule 93 are applicable to all appeals from decisions of registers and receivers.

[Rule 70 of Practice, was amended October 26, 1885, to read as follows:

"Rule 70, Rules 43 and 48, inclusive, and Rule 93 are *not* applicable to appeals from decisions rejecting applications to enter public lands."]

II.

PROCEEDINGS BEFORE SURVEYORS-GENERAL.

RULE 71. The proceedings in hearings and contests before surveyors-general shall, as to notices, depositions, and other matters, be governed as nearly

as may be by the rules prescribed for proceedings before registers and receivers, unless otherwise provided by law. See No. 877.

III.

PROCEEDINGS BEFORE THE COMMISSIONER OF THE GENERAL LAND OFFICE AND SECRETARY OF THE INTERIOR.

1.—Examination and argument.

RULE 72. When a contest has been closed before the local land officers and their report forwarded to the General Land Office, no additional evidence will be admitted in the case, unless offered under stipulation of the parties to the record, except where such evidence is presented as the basis of a motion for a new trial or in support of a mineral application or protest; but this rule will not prevent the Commissioner, in the exercise of his discretion, from ordering further investigation when necessary. See Nos. 594, 950, 1223.

RULE 73. After the Commissioner shall have received a record of testimony in a contested case, thirty days will be allowed to expire before any action thereon is taken, unless, in the judgment of the Commissioner, public policy or private necessity shall demand summary action, in which case he will proceed at his discretion, first notifying the attorneys of record of his proposed action.

RULE 74. When a case is pending on appeal from the decision of the register and receiver or surveyor-general, and argument is not filed before the same is reached in its order for examination, the argument will be considered closed, and thereafter no further arguments or motions of any kind will be entertained except upon written stipulation duly filed or good cause shown to the Commissioner.

RULE 75. If before decision by the Commissioner either party should desire to discuss a case orally, reasonable opportunity therefor will be given in the discretion of the Commissioner, but only at a time to be fixed by him upon notice to the opposing counsel; stating time and specific points upon which discussion is desired; and, except as herein provided, no oral hearings or suggestions will be allowed.

2.—Rehearing and review.

RULE 76. Motions for rehearing before registers and receivers, or for review or reconsideration of the decisions of the Commissioner or Secretary, will be allowed, in accordance with legal principles applicable to motions for new trials at law, after due notice to the opposing party. See Nos. 475, 849, 927, 980, 1003, 1005, 1007, 1215, 1296, 1408, 1512, 1681, 1994, 2001.

RULE 77. Motions for rehearing and review, except as provided in Rule 114, must be filed in the office wherein the decision to be affected by such rehearing or review was made or in the local land office, for transmittal to the General Land Office; and, except when based upon newly-discovered evidence, must be filed within thirty days from notice of such decision. See Nos. 413, 466, 755, 922, 927, 1494, 1730, 1864.

RULE 78. Motions for rehearing and review must be accompanied by an affidavit of the party, or his attorney, that the motion is made in good faith, and not for the purpose of delay. See Nos. 1296, 1494.

RULE 79. The time between the filing of a motion for rehearing or review and the notice of the decision upon such motion shall be excluded in computing the time allowed for appeal. See No. 466.

RULE 80. No officer shall entertain a motion in a case after an appeal from his decision has been taken. See No. 466.

3.—Appeals from the Commissioner to the Secretary.

RULE 81. An appeal may be taken from the decision of the Commissioner of the General Land Office to the Secretary of the Interior upon any question re-

lating to the disposal of the public lands and to private land claims, except in case of interlocutory orders and decisions and orders for hearing or other matters resting in the discretion of the Commissioner. Decisions and orders forming the above exception will be noted in the record, and will be considered by the Secretary on review in case an appeal upon the merits be finally allowed.

[Rule 81 of Practice was amended December 8, 1885, to read as follows: "No appeal shall be had from the action of the Commissioner of the General Land Office affirming the decision of the local officers in any case where the party or parties adversely affected thereby shall have failed, after due notice, to appeal from such decision of said local officers.

"Subject to this provision an appeal may be taken from the decision of the Commissioner of the General Land Office to the Secretary of the Interior upon any question relating to the disposal of the public lands and to private land claims, except in case of interlocutory orders and decisions and orders for hearing or other matter resting in the discretion of the Commissioner. Decisions and orders forming the above exception will be noted in the record, and will be considered by the Secretary on review in case an appeal upon the merits be finally allowed." See Nos. 36, 770, 776, 950, 956, 966, 998, 1003a, 1009, 1010, 1011, 1013, 1194.

RULE 82. When the Commissioner considers an appeal defective, he will notify the party of the defect, and if not amended within fifteen days from the date of the service of such notice the appeal may be dismissed by the Secretary of the Interior and the case closed. See Nos. 548, 760, 938, 946, 954, 988, 1014, 1194, 1744.

RULE 83. In proceedings before the Commissioner, in which he shall formally decide that a party has no right of appeal to the Secretary, the party against whom such decision is rendered may apply to the Secretary for an order directing the Commissioner to certify said proceedings to the Secretary and suspend further action until the Secretary shall pass upon the same. See Nos. 544, 685, 692, 696, 700, 776, 794, 950, 967, 988, 1009, 1010, 1011, 1013, 1014, 1194, 1296, 1298, 1517, 1734.

RULE 84. Applications to the Secretary under the preceding rule shall be made in writing, under oath, and shall fully and specifically set forth the grounds upon which the application is made. See Nos. 398, 544, 685, 700, 719, 776, 794, 861, 950, 967, 988, 1009, 1010, 1011, 1013, 1014, 1194, 1296, 1298, 1517, 1734.

RULE 85. When the Commissioner shall formally decide against the right of an appeal, he shall suspend action on the case at issue for twenty days from service of notice of his decision, to enable the party against whom the decision is rendered to apply to the Secretary for an order, in accordance with Rules 83 and 84. See Nos. 794, 988, 1194.

RULE 86. Notice of an appeal from the Commissioner's decision must be filed in the General Land Office and served on the appellee or his counsel within sixty days from the date of the service of notice of such decision. See Nos. 724, 877, 886, 933, 946, 960, 987, 1006, 1008, 1022, 1072, 1307, 1734.

RULE 87. When notice of the decision is given through the mails by the register and receiver or the surveyor-general, five days additional will be allowed by those officers for the transmission of the letter and five days for the return of the appeal through the same channel before reporting to the General Land Office. See Nos. 886, 1008, 1940, 2123.

RULE 88. Within the time allowed for givng notice of appeal the appellant shall also file in the General Land Office a specification of errors, which specification shall clearly and concisely designate the errors of which he complains. See Nos. 723, 848, 938, 946, 951, 953, 1008, 1014.

RULE 89. He may also, within the same time, file a written argument, with citation of authorities, in support of his appeal. See No. 1008.

RULE 90. A failure to file a specification of errors within the time required will be treated as a waiver of the right of appeal, and the case will be considered closed. See Nos. 966, 946, 951, 953, 1008, 1014.

RULE 91. The appellee shall be allowed thirty days from the expiration of the sixty days allowed for appeal in which to file his argument. See No. 1008.

RULE 92. The appellant shall be allowed thirty days from service of argument of appellee in which to file argument strictly in reply, and no other or further arguments or motions of any kind shall be filed without the permission of the Commissioner or Secretary and notice to the opposite party. See No. 598.

RULE 93. A copy of the notice of appeal, specification of errors, and all arguments of either party, shall be served on the opposite party within the time allowed for filing the same. See Nos. 886, 954, 987, 1076, 1888, 2123.

RULE 94. Such service shall be made personally or by registered letter. See Nos. 847, 886, 987, 2123.

RULE 95. Proof of personal service shall be the written acknowledgment of the party served or the affidavit of the person making the service attached to the papers served, and stating time, place, and manner of service. See Nos. 847, 886, 987.

RULE 96. Proof of service by registered letter shall be the affidavit of the person mailing the letter attached to a copy of the post office receipt. See Nos. 847, 886, 987.

RULE 97. Fifteen days, exclusive of the day of mailing, will be allowed for the transmission of notices and papers by mail, except in case of notice to resident attorneys, when one day will be allowed. See No. 946.

RULE 98. Notice of interlocutory motions and proceedings before the Commissioner and Secretary shall be served personally or by registered letter, and service proved as provided in Rules 94 and 95.

RULE 99. No motion affecting the merits of the case or the regular order of proceedings will be entertained except on due proof of service of notice. See Nos. 886, 927.

RULE 100. *Ex parte* cases and cases in which the adverse party does not appear will be governed by the foregoing rules as to notices of decisions, time for appeal, and filing of exceptions and arguments, as far as applicable. In such cases, however, the right to file additional evidence at any stage of the proceedings to cure defects in the proof or record will be allowed.

RULE 101. No person hereafter appearing as a party or attorney in any case shall be entitled to a notice of the proceedings who does not at the time of his appearance file in the office in which the case is pending a statement in writing, giving his name and post office address and the name of the party whom he represents; nor shall any person who has heretofore appeared in a case be entitled to a notice unless within fifteen days after being requested to file such statement he shall comply with said requirement.

RULE 102. No person not a party to the record shall intervene in a case without first disclosing on oath the nature of his interest. See Nos. 886, 1294.

RULE 103. When the Commissioner makes an order or decision affecting the merits of a case or the regular order of proceedings therein he will cause notice to be given to each party in interest whose address is known. See No. 1517.

4.—*Attorneys.*

RULE 104. In all cases, contested or *ex parte*, where the parties in interest are represented by attorneys, such attorneys will be recognized as fully controlling the cases of their respective clients. See Nos. 475, 496, 1900.

RULE 105. All notices will be served upon the attorneys of record. See Nos. 475, 476, 987, 1900.

RULE 106. Notice to one attorney in a case shall constitute notice to all counsel appearing for the party represented by him, and notice to the attorney will be deemed notice to the party in interest. See Nos. 475, 476, 1454, 1793, 1900.

RULE 107. All attorneys practicing before the General Land Office and Department of the Interior must first file the oath of office prescribed by section 3478 U. S. Revised Statutes.

RULE 108. In the examination of any case, whether contested or *ex parte*, and for the preparation of arguments, the attorneys employed, when in good standing in the Department, will be allowed full opportunity to consult the record of the case and to examine the abstracts, plats, field-notes, and tract-books, and

the correspondence of the General Land Office or of the Department relative thereto, and to make verbal inquiries of the various chiefs of divisions at their respective desks in respect to the papers or status of said case; but such personal inquiries will be made of no other clerk in the division except in the presence or with the consent of the head thereof, and will be restricted to the hours between 11 a. m. and 2 p. m.

[Rule 108 of Practice was amended January 11, 1883, to read as follows: "In the examination of any case, whether contested or *ex parte*, the attorneys employed in said case, when in good standing in the Department, for the preparation of arguments, will be allowed full opportunity to consult the records of the case, the abstracts, field-notes, and tract-books, and the correspondence of the General Land Office or of the Department not deemed *privileged* and *confidential;* and whenever, in the judgment of the Commissioner, it would not jeopardize any public or official interest, may make verbal inquiries of chiefs of divisions at their respective desks in respect to the papers or status of said case; but such inquiries will not be made to said chiefs or other clerks of divisions except upon consent of the Commissioner, Assistant Commissioner, or chief clerk, and will be restricted to hours between 11 a. m. and 2 p. m."] See No. 979.

RULE 109. Any attorney detected in any abuse of the above privileges or of gross misconduct, upon satisfactory proof thereof, after due notice and hearing, shall be prohibited from further practicing before the Department.

RULE 110. Should either party desire to discuss a case orally before the Secretary opportunity will be afforded at the discretion of the Department, but only at a time specified by the Secretary or fixed by stipulation of the parties, with the consent of the Secretary; and in the absence of such stipulation or written notice to opposing counsel, with like consent, specifying the time when argument will be heard. See No. 1730.

RULE 111. The examination of cases on appeal to the Commissioner or Secretary will be facilitated by filing in printed form such arguments as it is desired to have considered.

5.—Decisions.

RULE 112. Decisions of the Commissioner not appealed from within the period prescribed become final, and the case will be regularly closed. See Nos. 610, 982, 1341.

RULE 113. The decision of the Secretary, so far as respects the action of the Executive, is final.

RULE 114. Motions for review before the Secretary of the Interior and applications under Rules 83 and 84 shall be filed with the Commissioner of the General Land Office, who will thereupon suspend action under the decision sought to be reviewed and forward to the Secretary such motion or application.

[Rule 144 of Practice was amended March 27, 1886, to read as follows: "Motions for a review of decisions of the Secretary should be filed with the Secretary, who may, in his discretion, suspend action on the decision sought to be reviewed until such motion shall be decided. The amendment, approved March 27, 1886, to Rule 114 of Practice, to wit: "Motions for a review of decisions of the Secretary should be filed with the Secretary, who may, in his discretion, suspend action on the decision sought to be reviewed until such motion shall be decided," was revoked June 14, 1888, and Rule 114 of Practice again put in force as approved August 13, 1885, to wit: "Motions for review before the Secretary of the Interior, and applications under Rules 83 and 84, shall be filed with the Commissioner of the Land Office, who will thereupon suspend action under the decision sought to be reviewed, and forward to the Secretary such motion or application."] See Nos. 776, 934, 965, 1517.

None of the foregoing rules shall be construed to deprive the Secretary of the Interior of the exercise of the directory and supervisory powers conferred upon him law. See Nos. 901, 973.

INDEX.

M. D. BRAINARD,

(Late Law Clerk Interior Department.)

Attorney and Counsellor at Law,

PACIFIC BUILDING,

WASHINGTON, D. C.

MAKES A SPECIALTY OF ALL MATTERS RELATING TO PUBLIC LANDS AND MINES BEFORE THE COMMISSIONER LAND OFFICE, AND SECRETARY OF THE INTERIOR, AND SUPREME COURT OF THE UNITED STATES.

LAND CLAIMS A SPECIALTY.

A. A. THOMAS,

LAND.—ATTORNEY at LAW.—SCRIP.

St. Cloud Building, Cor. Ninth and F Streets,

WASHINGTON, D. C.

PRACTICES BEFORE UNITED STATES GENERAL LAND OFFICE AND ALL THE DEPARTMENTS.

CONTESTED LAND CASES, PRIVATE LAND CLAIMS, MINING, PRE-EMPTION, AND HOMESTEAD CASES, PROSECUTED BEFORE THE GENERAL LAND OFFICE, DEPARTMENT OF THE INTERIOR, AND THE SUPREME COURT, AND ALL CLASSES OF CLAIMS BEFORE THE SEVERAL EXECUTIVE DEPARTMENTS.

A DIGEST

OF THE

DECISIONS OF DEPARTMENT OF THE INTERIOR AND THE GEN'L LAND OFFICE,

In Cases relating to the Public Lands, from July, 1881, to Jan., 1887.

Prepared by

WILLIAM B. MATTHEWS AND WILLIAM O. CONWAY.

RECOMMENDATIONS.

This work has the approval of the General Land Office, and a copy of the same has been placed in each one of the district land offices in the U. S.

[From the Attorney-General of the United States.]

Department of Justice, Washington, D. C., November 21, 1888.

My Dear Sir—I acknowledge, with pleasure, the receipt of a copy of Digest of Land Decisions, prepared by yourself and Wm. O. Conway, which you were kind enough to send me a few days since.

I have examined the work somewhat carefully, and I regard it in all respects a most valuable contribution to that branch of investigation and study, and it cannot fail to receive the commendation of all persons engaged in "land matters" who may refer to it.

Hoping this book may meet with the favor it so justly merits, I am yours very truly,

WM. B. MATTHEWS, ESQ., Interior Dept. A. H. GARLAND.

[From the Solicitor-General of the United States.]

Department of Justice, Washington, October 23, 1888.

Messrs. Matthews and Conway.

Gentlemen—Your Digest of the "Decisions of the Department of the Interior and the General Land Office" is a work of substantial utility and merit. It supplies a want for those engaged in land office practice which has long been felt, and now, so far as I know, for the first time met. Without the Digest it would be very tedious, if not impossible, in any reasonable time to acquire a knowledge of the practice of the Land Office that would properly qualify an attorney to take charge of that class of business. With the Digest, a very brief examination of any decided question will afford the basis for safe advice and intelligent action. I am yours truly, G. A. JENKS.

[From Hon. H. L. Muldrow, Assistant Secretary of the Interior.]

Department of the Interior, Washington, August 27, 1888.

Messrs. Matthews and Conway.

Gentlemen—Your Digest of Land Decisions seems to have been prepared with the care that insures accuracy and inspires confidence, and I regard it as an invaluable addition to the libraries of attorneys practicing before the local and General Land Offices, as well as a useful compendium and reference book to those engaged in general practice.

I have not had the time to give it a thorough examination, but am confident I shall find it of great assistance in expediting the official work that comes to my desk.

Very respectfully, H. L. MULDROW.

[From Hon. Zach Montgomery, Assistant Attorney General.]

Department of the Interior, Office of the Assistant Attorney General, Washington, D. C., August 25, 1888.

Messrs. Matthews and Conway.

Gentlemen—I hasten to thank you for a copy of your new publication entitled "Matthews and Conway's Digest of Land Decisions."

Judging from the brief examination I have been able to give your book, I am led to believe that I shall find in it a most helpful assistant in discharging the legal work of my office; and I am sure that it would make a valuable addition to the law library of any American attorney who has anything to do with the administration of the public land laws of the United States. Very respectfully, ZACH. MONTGOMERY.

[From S. V. Proudfit, editor of Land Decisions.]

Department of the Interior, Washington, D. C.

Messrs. Matthews and Conway.

The Digest of Land Decisions which you have so carefully prepared will be found a valuable addition to the library of attorneys practicing before the Land Department. It has the claim of novelty as well as merit, covering not only the Departmental decisions, but the leading cases also in the United States Supreme Court.

It is in fact a library in itself, and will be accordingly appreciated by the profession.

S. V. PROUDFIT, Editor of Land Decisions.

[From Hon. S. M. Stockslager, Commissioner General Land Office.]

Department of the Interior, General Land Office, Washington, D. C., February 11, 1888.

W. B. Matthews and W. O. Conway.

Gentlemen—I am informed that you have completed and have now in press a Digest of the Decisions of the Department of the Interior, comprehending a period from July 17, 1881, to November 17, 1887, to which are added the Departmental Rules of Practice in relation to public lands, with references to the decisions construing the Rules, as also a Digest of the Decisions of the Supreme Court of the United States in public land cases, covering the same period. Such a Digest has been long needed, not only by the officers of the Government, but by all the judges, lawyers, and civil officers residing in the public land States. I feel satisfied from my knowledge of your recognized ability, accuracy, and your familiarity with the subject, that your Digest will be a complete success.

Yours very truly, S. M. STOCKSLAGER.

JAS. E. PADGETT. GEORGE E. EMMONS.

PADGETT & EMMONS,

Land and Mining Attorneys,

Atlantic Building,

Washington, D. C.

TEN YEARS PRACTICE BEFORE THE GENERAL LAND OFFICE, INTERIOR DEPARTMENT, AND UNITED STATES SUPREME COURT.

GIVE SPECIAL ATTENTION TO ALL CLASSES OF LAND AND MINING BUSINESS.

REFER TO JUDGES OF OUR COURTS, LAND OFFICE OFFICIALS, AND PROMINENT LAWYERS AND LAND ATTORNEYS OF THE WEST.